

United States
Circuit Court of Appeals

For the Ninth Circuit.

PACIFIC SOUTHWEST REALTY COMPANY,
a corporation,

Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

Transcript of the Record

Upon Petition to Review a Decision of the United States
Board of Tax Appeals.

FILED

MAR - 5 1942

PAUL P. O'BRIEN,
CLERK

No. 10037

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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APPEARANCES

For Taxpayer:

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JOHN B. MILLIKEN, Esq.,
BAYLEY KOHLMEIER, Esq.,
L. A. LUCE, Esq.,
STUART T. BARON, Esq.

For Comm'r.:

E. A. TONJES, Esq.

Docket No, 102605

PACIFIC SOUTHWEST REALTY COMPANY,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DOCKET ENTRIES

1940

May 13—Petition received and filed. Taxpayer notified. Fee paid.

“ 13—Copy of petition served on General Counsel.

“ 13—Request for Circuit hearing in Los Angeles filed by taxpayer. 5/13/40 copy served.

1940

Jun. 22—Answer filed by General Counsel.

“ 28—Copy of answer served on taxpayer. Los Angeles, California calendar.

Dec. 30—Hearing set Feb. 17, 1941 in Los Angeles, California.

1941

Feb. 20—Hearing had before Mr. Mellott on the merits. Submitted on stipulation of facts. Stipulation of facts filed at hearing. Petitioner's brief due 3/22/41—respondent's 4/21/41—reply 5/6/41.

Mar. 6—Transcript of hearing of 2/20/41 filed.

“ 20—Brief filed by taxpayer. 3/21/41 copy served.

Apr. 21—Motion for extension to May 1, 1941 to file reply brief filed by General Counsel. 4/22/41 granted.

“ 23—Reply brief filed by General Counsel.

May 5—Reply brief filed by taxpayer. 5/5/41 copy served.

Oct. 17—Notice of appearance of Stuart T. Baron as counsel filed.

“ 24—Opinion rendered, Mellott, Div. 11. Decision will be entered for the respondent. 10/27/41 copy served.

“ 27—Decision entered, Mellott, Div. 11.

Nov. 12—Motion for reconsideration and review by the entire Board, filed by taxpayer.

“ 14—Order that motion for reconsideration be denied entered.

1941

Nov. 15—Order denying review by the Board entered.

Dec. 26—Petition for review by U. S. Circuit Court of Appeals, 9th Circuit, with assignments of error filed by taxpayer.

“ 26—Proof of service filed by taxpayer.

1942

Jan. 21—Agreed statement of evidence filed.

“ 21—Agreed designation of contents of record filed. [1*]

United States Board of Tax Appeals

Docket No. 102605

PACIFIC SOUTHWEST REALTY COMPANY,
Petitioner,

vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

PETITION

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency (IT:LA:EIS-90D) dated February 21, 1940, and as a basis of its proceeding alleges as follows:

*Page numbering appearing at top of page of original Reporter's Transcript.

1. The petitioner is a corporation with principal office at 215 West Sixth Street, Los Angeles, California. The returns for the periods here involved were filed with the collector for the sixth district of California.

2. The notice of deficiency (a copy of which is attached and marked Exhibit A) was mailed to the petitioner on February 21, 1940.

3. The taxes in controversy are income taxes for the calendar years 1936 and 1937 in the amount of \$54,743.28 for the year 1936, representing a proposed deficiency of \$842.75 and a claimed overpayment in the amount of \$53,900.53, and a proposed [2] deficiency of \$13,878.81 for the year 1937.

4. The determination of tax set forth in the said notice of deficiency is based upon the following errors:

(a) The Commissioner erred in determining that the sum of \$5,618.35 paid by petitioner during the year 1936 in payment of real estate taxes on property repossessed by petitioner in 1935 was a capital expenditure.

(b) The Commissioner erred in refusing to allow petitioner a deduction for said real estate taxes paid by petitioner during the year 1936 in the amount of \$5,618.35.

(c) The Commissioner erred in determining that the securities issued by petitioner and designated 6½% Cumulative Preferred Serial Stock were preferred stock. i

(d) The Commissioner erred in failing and refusing to determine that the securities issued by petitioner and designated 6½% Cumulative Preferred Serial Stock evidenced indebtedness of petitioner to the holders of said securities.

(e) The Commissioner error in determining that the securities issued by petitioner and designated 5½% Cumulative Preferred Serial Stock were preferred stock.

(f) The Commissioner erred in failing and refusing to determine that the securities issued by petitioner and designated 5½% Cumulative Preferred Serial Stock evidenced indebtedness of petitioner to the holders of said securities.

(g) The Commissioner erred in failing and refusing to allow as a deduction for interest paid during the year 1936 the sum of \$65,300.63 paid by petitioner during the year 1936 on its [3] outstanding securities designated 6½% Cumulative Preferred Serial Stock.

(h) The Commissioner erred in failing and refusing to allow as a deduction for interest paid during the year 1936 the sum of \$55,000.00 paid by petitioner during the year 1936 on its outstanding securities designated 5½% Cumulative Preferred Serial Stock.

(i) The Commissioner erred in failing and refusing to allow a deduction for the year 1936 in the amount of \$51,066.65 for the portion of the discount at which petitioner's securities designated

6½% Cumulative Preferred Serial Stock were sold which was properly allocable to the year 1936.

(j) The Commissioner erred in failing and refusing to allow a deduction for the year 1936 in the amount of \$1,833.26 for the portion of the discount at which petitioner's securities designated 5½% Cumulative Preferred Serial Stock were sold which was properly allocable to the year 1936.

(k) The Commissioner erred in failing and refusing to allow a deduction for the year 1936 in the amount of \$4,111.29 for the portion of the expense of issuance of petitioner's securities designated 6½% Cumulative Preferred Serial Stock which was properly allocable to the year 1936.

(l) The Commissioner erred in failing and refusing to allow a deduction in the amount of \$182,025.00 for the premium paid by petitioner during the year 1936 upon the redemption of its securities designated 6½% Cumulative Preferred Serial Stock.

(m) The Commissioner erred in failing and refusing to [4] allow as a deduction for interest paid during the year 1937 the sum of \$41,250.00 paid by petitioner during the year 1937 on its outstanding securities designated 5½% Cumulative Preferred Serial Stock.

(n) The Commissioner erred in failing and refusing to allow a deduction for the year 1937 in the amount of \$31,275.39 for the portion of the discount at which petitioner's securities designated

5½% Cumulative Preferred Serial Stock were sold which was properly allocable to the year 1937.

(o) The Commissioner erred in failing and refusing to allow a deduction in the amount of \$20,000.00 for the premium paid by petitioner during the year 1937 upon the redemption of its securities designated 5½% Cumulative Preferred Serial Stock.

(p) The Commissioner erred in failing to determine an overpayment for the year 1936 in the amount of \$53,900.53.

(q) The Commissioner erred in determining a deficiency in income taxes due from the petitioner for the year 1937.

5. The facts upon which the petitioner relies as the basis of this proceeding are as follows:

(a) During the year 1929 petitioner sold certain real property located in the City of Los Angeles, State of California, under a conditional sales contract. Under the provisions of said contract petitioner retained title to said property until the purchase price was paid. During the year 1935, by reason of the default of the purchaser of said property, petitioner cancelled the sales contract and repossessed said property. At the time said property was repossessed by petitioner there were accrued but unpaid property taxes against said property in the amount of [5] \$5,618.35. During the year 1936 petitioner paid said property taxes in full. Petitioner deducted said sum of \$5,618.35, under the provisions of Section 23(c) of the Revenue

Act of 1936, in computing its net taxable income for the year 1936.

(b) During the years 1923, 1924 and 1925 petitioner issued and sold its securities designated as 6½% Cumulative Preferred Serial Stock of the total par value of \$4,500,000.00. The par value of each of said securities was \$100.00. Said securities were issued in twenty-three series designated "A" to "W" inclusive. Series "A" of said securities was to mature and become payable on July 1, 1929 and the remaining series were to mature and become payable successively on July 1st of each year thereafter, to and including the year 1951. Under the terms and conditions upon which said securities designated 6½% Cumulative Preferred Serial Stock were issued and sold petitioner bound itself to make payments to the holders of said securities in the amount of 6½% per annum of the par value of said securities and also bound itself to redeem said securities at the par value thereof plus accrued interest on the maturity dates specified. Upon the sale of said securities petitioner became indebted to the holders thereof in the amount of the par value thereof. The annual payments of 6½% of the par value of said securities were interest payments on indebtedness of petitioner to the holders of said securities.

(c) During the year 1928 petitioner issued and sold its securities designated 5½% Cumulative Preferred Serial Stock of the total par value of \$1,000,000.00. The par value of each of said securities was \$100.00. Said securities were issued in

twenty-two [6] series designated "AA" to "VV" inclusive. Series "AA" was to mature and become payable on July 1, 1939 and the remaining series were to mature and become payable successively on July 1st of each year thereafter to and including the year 1960. Under the terms and conditions upon which said securities designated 5½% Cumulative Preferred Serial Stock were issued and sold, petitioner bound itself to make payments to the holders of said securities in the amount of 5½% per annum of the par value of said securities and also bound itself to redeem said securities at the par value thereon plus accrued interest on the maturity dates specified. Upon the sale of said securities petitioner became indebted to the holders thereof in the amount of the par value thereof. The annual payments of 5½% of the par value of said securities were interest payments on indebtedness of petitioner to the holders of said securities.

(d) At the beginning of the year 1936 securities of petitioner designated 6½% Cumulative Preferred Serial Stock were issued, outstanding and unmatured of the total par value of \$3,766,500.00. During the year 1936 all of said securities were redeemed and retired. During the year 1936 petitioner made payments at the rate of 6½% of the par value of said securities to the holders of said securities in the total amount of \$65,300.63. Said payments in the total amount of \$65,300.63 were payments of interest on indebtedness of petitioner within the

meaning of Section 23(b) of the Revenue Act of 1936 and petitioner was entitled to deduct said sum in computing its net income for the year 1936.

(e) During the year 1936 there were issued and outstanding securities of petitioner designated 5½% Cumulative Preferred Serial [7] Stock of the par value of \$1,000,000.00. All of said securities were redeemed and retired during the year 1937. During the year 1936 petitioner made payments at the rate of 5½% of the par value of said securities to the holders thereof in the amount of \$55,000.00. During the year 1937 petitioner made payments at the rate of 5½% of the par value of said securities to the holders thereof in the amount of \$41,250.00. Said payments in the amounts of \$55,000.00 and \$41,250.00 were payments of interest on indebtedness of petitioner within the meaning of Section 23(b) of the Revenue Act of 1936 and petitioner was entitled to deduct said amounts in computing its net income for the years 1936 and 1937.

(f) Said securities designated 6½% Cumulative Preferred Serial Stock issued and sold as aforesaid were sold by petitioner at discounts from \$1.00 to \$3.50 per \$100 par value. The total discount at which said securities were issued and sold was \$121,924.00. The discount at which petitioner sold its said securities was an expense which petitioner was entitled to amortize and deduct over the life of said securities. The portion of the discount for which said securities were sold, which was allocable to the year 1936, was, to-wit, the sum of \$51,066.65.

Petitioner was entitled to deduct said sum of \$51,-066.65 in computing its net income for the year 1936.

(g) Said securities designated 5½% Cumulative Preferred Serial Stock issued and sold as aforesaid were sold by petitioner at discounts of \$3.00 and \$5.00 per \$100 par value. The total discount at which said securities were issued and sold was \$46,858.00. The discount at which petitioner sold its said securities was an expense which petitioner was entitled to amortize and deduct over [8] the life of said securities. The portion of the discount for which said securities were sold, which was allocable to the year 1936, was, to-wit, the sum of \$1,833.26. The portion of the discount for which said securities were sold, which was allocable to the year 1937, was, to-wit, the sum of \$31,275.39. Petitioner was entitled to deduct said sums of \$1,833.26 and \$31,275.39 in computing its net income for the years 1936 and 1937.

(h) In connection with the issuance and sale of petitioner's securities designated 6½% Cumulative Preferred Serial Stock, petitioner incurred necessary expenses in the total amount of \$12,-312.34. Said expenses incurred by petitioner in issuing and selling its said securities as aforesaid were deductible expenses which petitioner was entitled to amortize and deduct over the life of said securities. The portion of said expenses incurred in connection with the issuance and sale of said securities, properly allocable to the year 1936, was, to-wit,

the sum of \$4,111.29. Petitioner was entitled to deduct said sum of \$4,111.29 in computing its net income for the year 1936.

(i) During the year 1936 petitioner redeemed and retired all of its then outstanding securities designated 6½% Cumulative Preferred Serial Stock for the face value thereof plus a total premium of \$182,025.00. Petitioner was entitled to deduct said premium of \$182,025.00 in computing its net income for the year 1936.

(j) During the year 1937 petitioner redeemed and retired all of its then outstanding securities designated 5½% Cumulative Preferred Serial Stock for the face value thereof plus a total premium of \$20,000.00. Petitioner was entitled to deduct said premium of \$20,000.00 in computing its net income for the year 1937. [9]

(k) In its income tax return for the year 1936 petitioner failed to take deductions for the interest payments made on its securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock, failed to take a deduction for the portion of the expense of issuance and sale of its securities designated 6½% Cumulative Preferred Serial Stock allocable to the year 1936, failed to take deductions for the portions of the discounts at which its securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock were issued and sold which were allocable to the year 1936, and failed to take a deduction for the premium paid

upon the redemption of its securities designated 6½% Cumulative Preferred Serial Stock. As the result of petitioner's failure to take such deductions, petitioner overstated its net income for the year 1936 in the amount of \$359,336.83 and overstated its income tax liability for the year 1936 in the amount of \$53,900.53. Petitioner's correct net income for the year 1936 did not exceed the sum of \$203,403.69 and its correct income tax liability for the year 1936 did not exceed the sum of \$29,350.55. In its income tax return for the year 1936 petitioner reported a tax liability in the amount of \$83,251.08. Petitioner paid said tax in installments as follows: \$20,812.77 on or about March 15, 1937 and like amounts on or about June 12th, September 13th, and December 13, 1937.

(1) On March 6, 1940 petitioner filed with the Collector of Internal Revenue for the Sixth District of California, at Los Angeles, California, its written claim for refund of income taxes overpaid by it for the year 1936 in the amount of \$53,900.53, setting forth therein the same facts and grounds herein alleged and relied upon. A true copy of said claim for refund is hereto attached, marked [10] Exhibit B, and by this reference made a part hereof.

(m) In its income tax return for the year 1937 petitioner deducted as interest paid the payments made on its securities designated 5½% Cumulative Preferred Serial Stock in the amount of \$41,250.00, deducted the sum of \$31,275.39 as the portion of the

discount at which said securities designated 5½% Cumulative Preferred Serial Stock were issued and sold which was properly allocable to the year 1936 and deducted the premium paid in the amount of \$20,000.00 upon the redemption of said securities designated 5½% Cumulative Preferred Serial Stock. The Commissioner refused to allow said deductions and as a result thereof has proposed the deficiency for 1937 herein contested.

Wherefore, petitioner prays that this Board may hear the proceeding and determine that petitioner overpaid its income taxes for the year 1936 in the amount of \$53,900.53, that the claim for the refund of said overpayment was duly filed within the time required by law, that there is no deficiency in income taxes due from petitioner for the year 1937, and grant such other and further relief as may be proper.

CLAUDE I. PARKER
JOHN B. MILLIKEN,
BAYLEY KOHLMEIER,
Counsel for Petitioner,
808 Bank of America
Building.

Of Counsel:

L. A. LUCE,
937 Munsey Building,
Washington, D. C. [11]

State of California

County of Los Angeles—ss.

W. B. Stringfellow, being duly sworn, says that he is Vice-President of Pacific Southwest Realty Company, the petitioner above named, and duly authorized to verify the foregoing petition; that he has read the foregoing petition, or had the same read to him, and is familiar with the statements contained therein, and that the statements contained therein are true, except those stated to be upon information and belief, and that those he believes to be true.

W. B. STRINGFELLOW.

Wood:

Subscribed and sworn to before me this 10 day of
May, 1940.

DOROTHY C. REYNOLDS,

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires June 13, 1941. [12]

EXHIBIT A

Treasury Department
Internal Revenue Service
12th Floor,
U. S. Post Office and Court House,
Los Angeles, California.

Feb. 21, 1940

Office of
Internal Revenue Agent in Charge
Los Angeles Division
IT:LA
EIS-90D

Pacific Southwest Realty Company,
215 West Sixth Street,
Los Angeles, California.

Sirs:

You are advised that the determination of your income tax liability for the taxable years 1936 and 1937 discloses a deficiency of \$14,721.56 as shown in the statement attached.

In accordance with the provisions of existing internal revenue laws, notice is hereby given of the deficiency mentioned.

Within 90 days (not counting Sunday or a legal holiday in the District of Columbia as the 90th day) from the date of the mailing of this letter, you may file a petition with the United States Board of Tax Appeals for a redetermination of the deficiency.

Should you not desire to file a petition, you are requested to execute the enclosed form and forward it to Internal Revenue Agent in Charge, Los An-

geles, California, for the attention of IT:LA:FC. The signing and filing of this form will expedite the closing of your returns by permitting an early assessment of the deficiency, and will prevent the accumulation of interest, since the interest period terminates 30 days after filing the form, or on the date the assessment is made, whichever is earlier.

Respectfully,

GUY T. HELVERING,

Commissioner,

By (Signed) GEORGE D. MARTIN,

Internal Revenue Agent in

Charge.

Enclosures:

Statement.

Form of waiver.

EIS:fpc [13]

STATEMENT

IT:LA

EIS-90D

Pacific Southwest Realty Company,

215 West Sixth Street,

Los Angeles, California.

Tax Liability for the Taxable Years Ended

December 31, 1936

and

December 31, 1937

Year	Liability	Assessed	Deficiency
Income tax 1936.....	\$ 84,093.83	\$ 83,251.08	\$ 842.75
Income tax 1937.....	73,007.00	59,128.19	13,878.81
Total.....	\$157,100.83	\$142,379.27	\$14,721.56

In making this determination of your income tax liability, careful consideration has been given to the report of examination dated July 24, 1939; and to your protest dated August 18, 1939.

If you do not acquiesce in all of the adjustments making up the deficiency indicated, but desire to stop the accumulation of interest on that part of the deficiency resulting from adjustments to which you agree, please fill out the enclosed form of waiver, inserting therein the amount of the deficiency you desire to have assessed at once. The execution of the form for the agreed portion of the deficiency will not deprive you of your right to petition the United States Board of Tax Appeals for a redetermination of the deficiency.

A copy of this letter and statement has been mailed to your representative, Mr. Claude I. Parker, Room 808, Bank of America Building, Los Angeles, California, in accordance with the authority contained in the power of attorney executed by you and on file with the Bureau. [14]

ADJUSTMENTS TO NET INCOME

Taxable Year Ended December 31, 1936

Net income as disclosed by return.....	\$562,740.52
Unallowable deduction:	
(a) Real estate taxes.....	5,618.35
Net income adjusted.....	<hr/> \$568,358.87

EXPLANATION OF ADJUSTMENTS

(a) Represent accrued taxes on real estate repossessed by your corporation in the year 1935. The taxes were paid by you in the year 1936 and claimed as a deduction from gross income in your 1936 return. It is held that these taxes constitute additional costs to you of the property repossessed and are not allowable deductions from gross income.

COMPUTATION OF TAX

Taxable Year Ended December 31, 1936

Income Tax:

Normal Tax:

Taxable net income.....	\$568,358.87
-------------------------	--------------

Less:

Excess-profits tax	None
--------------------------	------

Net income for normal tax computation.....	\$568,358.87
--	--------------

Normal tax net income.....	\$568,358.87
----------------------------	--------------

8% of \$ 2,000.00.....	\$ 160.00
------------------------	-----------

11% of 13,000.00.....	1,430.00
-----------------------	----------

13% of 25,000.00.....	3,250.00
-----------------------	----------

15% of 528,358.87.....	79,253.83
------------------------	-----------

Total normal tax.....	\$ 84,093.83
-----------------------	--------------

[15]

Surtax on Undistributed Profits:

Taxable net income.....	\$568,358.87
Less:	
Normal tax	84,093.83
Adjusted net income.....	\$484,265.04
Less:	
Dividends paid credit.....	484,265.04
Undistributed net income.....	None
Subject to tax.....	None
Surtax	None
Normal tax	\$ 84,093.83
Total income tax (normal tax and surtax).....	\$ 84,093.83
Less:	
Foreign tax credit.....	None
Balance of tax assessable.....	\$ 84,093.83
Income tax assessed (normal tax and surtax):	
Original 1937 list, account No. 402305.....	83,251.08
Deficiency of income tax.....	\$ 842.75

[16]

ADJUSTMENTS TO NET INCOME

Taxable Year Ended December 31, 1937

Net income as disclosed by return.....	\$401,921.26
Unallowable deductions:	
(a) Dividends on preferred stock.....	\$41,250.00
(b) Unamortized discount on preferred stock	31,275.39
(c) Premium on preferred stock.....	20,000.00
Net income adjusted.....	\$494,446.65

EXPLANATION OF ADJUSTMENTS

(a) Dividends paid on preferred stock do not constitute allowable deductions under the provisions of section 23 of the Revenue Act of 1936.

(b) and (c) Discount and expense incident to the issue of preferred shares and premium paid upon the retirement of said shares are not allowable deductions under section 23 of the Revenue Act of 1936. [17]

COMPUTATION OF TAX

Taxable Year Ended December 31, 1937

Income Tax:

Normal Tax:

Taxable net income.....	\$494,446.65
-------------------------	--------------

Less:

Excess-profits tax	None
--------------------------	------

Net income for normal tax computation.....	\$494,446.65
--	--------------

Normal tax net income.....	\$494,446.65
----------------------------	--------------

8% of \$ 2,000.00.....	\$ 160.00
------------------------	-----------

11% of 13,000.00.....	1,430.00
-----------------------	----------

13% of 25,000.00.....	3,250.00
-----------------------	----------

15% of 454,446.65.....	68,167.00
------------------------	-----------

Total normal tax.....	\$ 73,007.00
-----------------------	--------------

Surtax on Undistributed Profits:

Taxable net income.....	\$494,446.65
-------------------------	--------------

Less:

Normal tax	73,007.00
------------------	-----------

Adjusted net income.....	\$421,439.65
--------------------------	--------------

Less:

Dividends paid credit.....	421,439.65
----------------------------	------------

Undistributed net income.....	None
-------------------------------	------

Subject to surtax.....	None
------------------------	------

Surtax	None
Normal tax	\$ 73,007.00
<hr/>	
Total income tax (normal tax and surtax)...	\$ 73,007.00
Less:	
Foreign tax credit.....	None
<hr/>	
Balance of tax assessable.....	\$ 73,007.00
<hr/>	
Income tax assessed (normal tax and surtax):	
Original 1938 list, account No. 401831.....	59,128.19
<hr/>	
Deficiency of income tax.....	\$ 13,878.81
<hr/>	
[19]	

EXHIBIT B

Form 843

Treasury Department
Internal Revenue Service
Revised June 1930

Claim

To Be Filed with the Collector Where
Assessment Was Made or Tax Paid

The Collector will indicate in the block below the kind of claim filed, and fill in the certificate on the reverse side.

- (x) Refund of Tax Illegally Collected.
- () Refund of Amount Paid for Stamps Unused, or Used in Error or Excess.
- () Abatement of Tax Assessed (not applicable to estate or income taxes).

State of California

County of Los Angeles—ss.

Name of taxpayer or purchaser of stamps, Pacific Southwest Realty Company.

Business address, 215 West Sixth Street, Los Angeles, California.

Residence.....

The deponent, being duly sworn according to law, deposes and says that this statement is made on behalf of the taxpayer named, and that the facts given below are true and complete:

1. District in which return (if any) was filed, Sixth District California.

2. Period (if for income tax, make separate form for each taxable year) from Jan. 1, 1936, to Dec. 31, 1936.

3. Character of assessment or tax, Income Tax.

4. Amount of assessment, \$83,251.08; dates of payment 3/15, 6/12, 9/13, 12/13/37.

5. Date stamps were purchased from the Government

6. Amount to be refunded or such greater amount as is legally refundable, \$53,900.53.

7. Amount to be abated (not applicable to income or estate taxes)..... \$.....

8. The time within which this claim may be legally filed expires, under Section 322 of the Revenue Code, on March 15, 1940.

The deponent verily believes that this claim should be allowed for the following reasons: [20]

Claimant corporation was incorporated on May 31, 1923 under the laws of the State of Delaware for the primary purpose of owning and operating improved real estate.

Claimant is authorized to do business in the State of California, and its principal place of business is located in Los Angeles, California.

By its Certificate of Incorporation claimant was authorized to issue and sell 50,000 shares of securities designated as 6½% Cumulative Preferred Serial stock of a par value of \$100.00 per share. It was further provided in said Certificate of Incorporation that said 6½% Cumulative Preferred Serial stock should be issued in twenty-three series designated by letters "A" to "W" inclusive, and that each series should be redeemed at par plus all unpaid, accrued and accumulated dividends thereon on the date designated. Series A was to be redeemed on July 1, 1929, and the remaining series were to be redeemed successively on July 1st of each year thereafter to and including the year 1951. It was further provided in said Certificate of Incorporation that said 6½% Cumulative Preferred Serial stocks should not be sold for less than 96% of the par value thereof; that none of said stocks should be issued except for the purpose of acquiring with the proceeds thereof property suitable for the purposes of the corporation; that the amount of said stock issued should not exceed 100% of the appraised value of the property purchased; that the

total amount of said 6½% Cumulative Preferred Serial stocks outstanding, together with the total bonded indebtedness of the corporation, should not exceed 100% of the appraised value of the property of the corporation; that if the corporation sold any of its property it should purchase other property of equal value or apply the proceeds of the sale to the redemption of its bonds or preferred stock.

It was further provided that the dividends on said 6½% Cumulative Preferred Serial stock should be 6½% per annum, and no more, payable quarterly. The dividends were cumulative and no dividends could be paid on common stock until all dividends due had been paid on said 6½% Cumulative Preferred Serial stock and until an amount equal to two full yearly dividends on the outstanding 6½% Cumulative Preferred Serial stock had been set aside or deposited with a designated trust company. Upon liquidation or dissolution no distribution could be made to the holders of the common stock until the holders of 6½% Cumulative Preferred Serial stock had received 105% of the par value of said stock. Each series of said stock matured on a definitely designated date, and it was provided that said stock should be redeemed on said maturity date at par plus unpaid, accrued and accumulated dividends thereon. In the event the corporation failed to redeem said 6½% Cumulative Preferred Serial stock on the maturity dates designated, the holders thereof were given the right to

enforce payment of the par value plus any unpaid, accrued and accumulated dividends thereon, the same as any unconditional claim or debt against the corporation. [22]

The holders of said 6½% Cumulative Preferred Serial stock were given no voting rights except that it was provided that if any dividends should not be paid on the due date and should remain unpaid for ninety (90) days, the holders of the 6½% Cumulative Preferred Serial stock should have exclusive voting power until such dividend was paid.

During the years 1923, 1924 and 1925, 45,000 shares of said 6½% Cumulative Preferred Serial stock were issued and sold by claimant corporation. The certificates issued by claimant corporation to evidence said 6½% Cumulative Preferred Serial stock contained a statement of the rights and interests of the holders thereof. A true copy of the certificates issued by claimant corporation as evidence of said 6½% Cumulative Preferred Serial stock is attached, as Exhibit "A", to the claim for refund filed by claimant for the year 1934 and is by this reference made a part hereof.

During the year 1928, pursuant to authority granted it by its Certificate of Incorporation, claimant corporation issued and sold 10,000 shares of securities designated as 5½% Cumulative Preferred Serial stock of the par value of \$100.00 per share. Except for the amount of dividends provided and the minimum amount for which it could be issued,

said 5½% Cumulative Preferred Serial stock was substantially the same and was issued upon substantially the same terms and conditions as the securities theretofore issued by claimant, designated as 6½% Cumulative Preferred Serial stock and described more fully above. Said 5½% Cumulative Preferred Serial stock was issued in twenty-two (22) series, designed "AA" to "VV" inclusive. It was provided that Series "AA" would mature and become payable on July 1, 1939, and the remaining series would mature and become payable on July 1st of each year thereafter to and including the year 1960. A true copy of the certificates issued by claimant as evidence of said 5½% Cumulative Preferred Serial stock is attached, as Exhibit "B", to the claim for refund filed by claimant for the year 1934 and is by this reference made a part hereof.

At the beginning of the year 1936 there were issued and outstanding 37,665 unmatured shares of said 6½% Cumulative Preferred Serial stock. During the year 1936 all of said 37,665 shares of said securities were redeemed. During the year 1936 there were issued and outstanding 10,000 shares of said 5½% Cumulative Preferred Serial stock. During the year 1936 claimant made payments on said securities to the holders thereof, which payments were designated dividends, in the total amount of \$120,300.63.

Claimant is informed and believes that at the time of the issuance of said securities it was the

intention and understanding of claimant and the purchasers of said securities that the purchase price paid for said securities was a loan to claimant which was to be repaid in full with interest at the designated rate.

The above stated facts show clearly that said 6½% Cumulative Preferred Serial stock and 5½% Cumulative Preferred Serial stock were issued and sold upon the same terms and conditions and contained the requisite elements of bonds or other indebtedness [23] including definite maturity dates, a definite rate of interest and an enforceable obligation to repay the principal sum together with accrued interest upon the maturity dates. In this regard, claimant refers to the following court decisions:

Arthur Jones Syndicate v. Commissioner,
(C.C.A.-7) 23 Fed (2d) 833;

Commissioner v. Proctor Shop, Inc. (C.C.A.-
9) 82 Fed (2d) 792;

Commissioner v. O.P.P. Holding Corp.,
(C.C.A.-2) 76 Fed. (2d) 11;

Helvering v. Richmond F. & P. R. Co.,
(C.C.A.-4) 90 Fed. (2d) 971;

Bolinger-Franklin Lumber Co. v. Commissioner, 7 B.T.A. 402.

Claimant believes and contends that the holders of said securities designated as 6½% Cumulative Preferred Serial stock and 5½% Cumulative Preferred Serial stock were creditors of claimant cor-

poration and that the certificates representing said securities were certificates of indebtedness, and the payments made thereon by claimant were interest payments which, under the provisions of Section 23(b) of the Revenue Act of 1936, claimant was entitled to deduct in computing its net income for the year 1936 for income tax purposes.

The 45,000 shares of said 6½% Cumulative Preferred Serial stock issued and sold by claimant during the years 1923, 1924 and 1925, and the 10,000 shares of said 5½% Cumulative Preferred Serial stock issued and sold by claimant during the year 1928 were issued and sold during the years and at the discounts as shown in the following schedules:

61½% Cumulative Preferred Serial Stock

Series	Maturity Date	Total Issued	Issued during 1923		Issued During 1924	Issued During 1925
			Issued at \$1.00 Discount	Issued at \$3.00 Discount	Issued at \$3.50 Discount	Issued at \$2.50 Discount
A	7-1-29	\$ 99,000	\$ 66,000	\$	\$ 22,000	\$ 11,000
B	7-1-30	99,000	41,700	24,300	22,000	11,000
C	7-1-31	99,000	34,500	31,500	22,000	11,000
D	7-1-32	99,000	20,000	46,000	22,000	11,000
E	7-1-33	112,500	73,500	1,500	25,000	12,500
F	7-1-34	112,500	34,600	40,400	25,000	12,500
G	7-1-35	112,500	22,800	52,200	25,000	12,500
H	7-1-36	126,000	32,000	52,000	28,000	14,000
I	7-1-37	126,000	30,000	54,000	28,000	14,000
J	7-1-38	153,000	57,000	45,000	34,000	17,000
K	7-1-39	153,000	6,300	95,700	34,000	17,000
L	7-1-40	153,000	67,000	35,000	34,000	17,000
M	7-1-41	180,000	15,600	104,400	40,000	20,000
N	7-1-42	207,000	3,500	134,500	46,000	23,000
O	7-1-43	207,000	14,300	123,700	46,000	23,000
P	7-1-44	234,000	11,500	144,500	52,000	26,000
Q	7-1-45	261,000	21,900	152,100	58,000	29,000
R	7-1-46	274,500	88,000	95,000	61,000	30,500
S	7-1-47	301,500	5,000	196,000	67,000	33,500
[24]						
T	7-1-48	328,500	10,000	209,000	73,000	36,500
U	7-1-49	355,500	28,000	209,000	79,000	39,500
V	7-1-50	400,500	50,500	216,500	89,000	44,500
W	7-1-51	306,000	45,100	158,900	68,000	34,000
		\$4,500,000	\$778,800	\$2,221,200	\$1,000,000	\$500,000

Note: The values stated on the foregoing page are the par values of the certificates issued.

5½% Cumulative Preferred Serial Stock

Series	Maturity	Total (Issued during 1928)	Issued at \$3. Discount	Issued at \$5. Discount
AA	7-1-39	\$ 10,000	\$ 1,500	\$ 8,500
BB	7-1-40	10,000		10,000
CC	7-1-41	10,000	1,500	8,500
DD	7-1-42	15,000		15,000
EE	7-1-43	15,000		15,000
FF	7-1-44	15,000		15,000
GG	7-1-45	20,000		20,000
HH	7-1-46	20,000	500	19,500
II	7-1-47	20,000	2,000	18,000
JJ	7-1-48	25,000	1,000	24,000
KK	7-1-49	25,000	3,200	21,800
LL	7-1-50	25,000	4,000	21,000
MM	7-1-51	25,000	3,000	22,000
NN	7-1-52	85,000	7,000	78,000
OO	7-1-53	85,000	12,000	73,000
PP	7-1-54	85,000	6,500	78,500
QQ	7-1-55	85,000	40,000	45,000
RR	7-1-56	85,000	8,500	76,500
SS	7-1-57	85,000	13,500	71,500
TT	7-1-58	85,000	27,200	57,800
UU	7-1-59	85,000	15,500	69,500
VV	7-1-60	85,000	10,200	74,800
		<hr/> \$1,000,000	<hr/> \$157,100	<hr/> \$842,900

Note: The values stated above are the par values of the certificates issued.

Claimant contends that the discount at which it sold said securities was a cost or expense which claimant was entitled to amortize and deduct over the life of said securities; that the portion of the discount for which said 6½% Cumulative Preferred Serial stock was sold, which was allocable to the year 1936, was, to-wit, the sum of \$51,066.65; that

the portion of the discount at which the 5½% Cumulative Preferred Serial stock was sold, which was allocable to the year 1936 was, to-wit, the sum of \$1,833.26; that claimant was entitled to deduct said sum of \$51,066.65 and \$1,833.26 in computing its net income for the year 1936.

Claimant corporation incurred necessary expenses in connection with the issuance and sale of said 6½% Cumulative Preferred Serial [25] stock in the total amount of \$12,312.34.

Claimant contends that the expenses incurred by claimant in issuing and selling said securities were deductible expenses which should have been amortized and deducted over the life of said securities. The portion of said expenses incurred in connection with the issuance and sale of said 6½% Cumulative Preferred Serial stock properly allocable to the year 1936 was, to-wit, the sum of \$4,111.29.

During the year 1936 claimant redeemed and retired all of its then outstanding 6½% Cumulative Preferred Serial stock for the face value thereof, plus a total premium, of \$182,025.00. Said premium paid upon the redemption of said securities was a deductible expense for the year 1936. (Regulations 94, Article 22 (a)-18(1)).

In summary, claimant contends that in computing its net taxable income for the year 1936, for federal income tax purposes, claimant was entitled to deductions for interest paid on said 6½% Cumulative Preferred Serial stock and 5½% Cumulative Pre-

ferred Serial stock, and for discount expense and issuance expense incurred in connection with the issuance of said securities and the premium paid upon the redemption of said securities, as aforesaid, as set forth more fully in the following amounts:

Interest on 6½% Cumulative Preferred Serial stock and 5½% Cumulative Preferred Serial stock	\$120,300.63
Discount on 6½% Cumulative Preferred Serial stock allocable to the year 1936.....	51,066.65
Discount on 5½% Cumulative Preferred Serial stock allocable to the year 1936.....	1,833.26
Expense of issuance of 6½% Cumulative Preferred Serial stock allocable to the year 1936	4,111.29
Premium paid upon redemption of 6½% Cumulative Preferred Serial stock.....	182,025.00
Total	\$359,336.83

In preparing its income tax return for the year 1936 and in computing its net income for said year, claimant took no deductions for interest paid on its said securities designated 6½% Cumulative Preferred Serial stock and 5½% Cumulative Preferred Serial stock; took no deductions for the discount at which said securities were sold; took no deductions for expenses incurred by claimant in connection with the issuance and sale of said stock and took no deduction for the premium paid upon the retirement of said 6½% Cumulative Preferred Serial stock. Under the provisions of the Revenue Act of 1936, claimant was entitled to deduct all of said expenses

in computing its net taxable income and its tax liability for said year 1936.

On or about March 15, 1937 claimant duly filed its federal income tax return for the calendar year 1936 with the Collector of Internal Revenue at Los Angeles, California. Said return disclosed [26] a net income of \$562,740.52 and a tax liability of \$83,251.08. Said tax in the amount of \$83,251.08 was duly paid during the year 1937 as follows:

\$20,812.77	on or about March 15, 1937
20,812.77	on or about June 12, 1937
20,812.77	on or about Sept. 13, 1937
20,812.77	on or about Dec. 13, 1937
<hr/>	
\$83,251.08	

Claimant's correct net income for the year 1936 was \$203,403.69 and its correct income tax liability for said year was \$29,350.55. By reason of the errors set forth herein, claimant overstated its net income for the year 1936 in the amount of \$359,336.83 and overpaid its income tax liability for said year in the amount of \$53,900.53.

Claimant respectfully requests that the deductions herein claimed be allowed and the overpayment of its income tax liability for the year 1936 in the total amount of \$53,900.53 be refunded, together with interest thereon from the dates of payment thereof. Claimant also requests that it be granted a hearing on its claim.

Signed

PACIFIC SOUTHWEST
REALTY COMPANY,
By W. B. STRINGFELLOW,
Vice President.

CERTIFICATE

I hereby certify that the foregoing claim for refund was prepared by me for and on behalf of taxpayer; that the facts recited therein are the facts as given to me by the taxpayer and to the best of my knowledge and belief are true and correct.

BAYLEY KOHLMEIER,

With Claude I. Parker

808 Bank of America Bldg.,

Los Angeles, California.

Sworn to and subscribed before me this 5th day of March, 1940 (Wood)

DOROTHY C. REYNOLDS,

Notary Public.

(See Instructions on Reverse Side)

[Reverse Not Filled In]

[Endorsed]: U. S. B. T. A. Filed May 13, 1940.

[27]

[Title of Board and Cause.]

ANSWER

The Commissioner of Internal Revenue, by his attorney, J. P. Wenchel, Chief Counsel, Bureau of Internal Revenue, for answer to the petition of the above-named taxpayer, admits and denies as follows:

1 and 2. Admits the allegations contained in paragraphs 1 and 2 of the petition.

3. Admits that the taxes in controversy are income taxes for the calendar years 1936 and 1937, and denies the remainder of the allegations contained in paragraph 3 of the petition.

4. Denies the allegations of error contained in subdivisions (a) to (q), inclusive, of paragraph 4 of the petition.

5. Denies the allegations of fact contained in subdivisions (a) to (m), inclusive, of paragraph 5 of the petition.

6. Denies each and every allegation contained in the petition not hereinbefore specifically admitted or denied.

Wherefore, it is prayed that the determination of the Commissioner be approved.

Signed J. P. WENCHEL,
 Chief Counsel,
 Bureau of Internal Revenue.

Of Counsel:

ALVA C. BAIRD,
FRANK T. HORNER,
E. A. TONJES,
Special Attorneys,
Bureau of Internal Revenue.

EAT/q 6-13-40.

[Endorsed]: U. S. B. T. A. Filed June 22, 1940.

[28]

[Title of Board and Cause.]

Docket No. 102605.

Promulgated October 24, 1941.

1. In conformity with its articles of incorporation petitioner issued and sold two series of "Cumulative Preferred Serial Stock." The certificates stated that they were redeemable at par, plus all unpaid, accrued, or accumulated dividends, and that the holders should have the right to enforce payment the same as on any unconditional claim or debt against the corporation. The articles also authorized the corporation to issue bonds, though the total indebtedness of the corporation could not exceed 50 percent of the appraised value of the property subject thereto. First mortgage bonds in an amount substantially equivalent to the face amount of the preferred stock were issued and sold at about the same time that the stock was issued. The stock was represented to be free from the personal property tax of the state and free from the normal Federal income tax. The periodic payments were made from profits, were denominated "dividends" and no payments were ever made except following the declaration of a dividend. Held, that the certificates were what they purported to be and not merely evidence of the relation of debtor and creditor; held, further, that the amounts paid as "dividends" may not be deducted as "interest" nor may the dis-

counts allowed or the premiums paid in connection with the sale and redemption of the stock in the taxable years be allowed as deductions from gross income.

2. Real estate sold by petitioner in 1929 under a conditional sales contract was repossessed in 1935, following default by the purchaser in the payment of the purchase price. Held, payment by petitioner in 1936 of the real estate taxes which had been assessed in 1935, prior to the repossession, does not entitle it to a deduction for taxes paid.

Bayley Kohlmeier, Esq., and Stuart Baron, Esq., for the petitioner. E. A. Tonjes, Esq., for the respondent.

OPINION.

Mellott: The Commissioner determined deficiencies in income tax for the calendar years 1936 and 1937 in the respective amounts of \$842.75 and \$13,878.81. The petition alleges that there is no deficiency [29] for either year and that petitioner overpaid its income taxes for the year 1936 in the amount of \$53,900.53. The two general questions are: (1) Whether securities issued by petitioner and designated either 6½% or 5½% cumulative preferred serial stock represented an indebtedness rather than a proprietary interest in the corporation; and (2) whether an amount paid by petitioner is deductible as taxes.

The proceeding was submitted upon a stipulation of facts with attached exhibits and the testimony of three witnesses. We find the facts to be as stipulated and, from the testimony of the witnesses, find that the two classes of preferred stock issued by petitioner as hereinafter set out were not listed upon any stock exchange but were dealt in, in "over-the-counter" transactions, in which accrued dividends, prior to the actual declaration of a dividend, were generally taken into consideration in substantially the same manner and to the same extent as accrued interest upon bonds is usually taken into consideration upon purchase or sale. All other facts hereinafter set out are taken from the stipulation of the parties.

Petitioner is a corporation organized in 1923 under the laws of Delaware and is qualified to do business in the State of California. Its principal place of business is in Los Angeles, California, and its income tax returns for the taxable years were filed with the collector of internal revenue for the sixth district of California. Its books of account were kept and its returns of income were made on the cash basis.

Petitioner was incorporated by persons affiliated with the Pacific Southwest Trust & Savings Bank and the First National Bank of Los Angeles for the purpose of acquiring, and thereafter owning and operating, all of the real estate properties owned by the first mentioned bank and one parcel

of real estate owned by the second mentioned bank, and for the further purpose of providing additional bank premises as the growth of the banks required. The principal reason for organizing petitioner was to avoid "the locking up of too great a proportion" of the capital and surplus of the banks in real estate owned by them.

The total authorized capital stock of the corporation was 100,000 shares, divided into 50,000 shares of preferred of the par value of \$100 each and 50,000 shares of common with no nominal or par value. The original articles of incorporation provided for the issuance of 23 series of 6½ percent cumulative preferred serial stock, to be designated by the letters A to W, both inclusive, each series to be for the number of shares shown (ranging between 1,100 and 3,950) and to be "redeemable at their par value plus all unpaid, accrued, or accumulated dividends thereon." Such cumulative preferred serial stock could be issued as and when the board of directors should determine, [30] but it could not be issued except for the purpose of acquiring property suitable for one or more of the purposes of the corporation. The articles of incorporation also provided:

* * * The aggregate indebtedness of the corporation secured by mortgage, deed of trust, or otherwise, shall not exceed in amount Fifty per cent (50%) of the appraised value of the property subject thereto. The total amount of preferred stock of the corporation at any time

outstanding shall not, together with the total bonded indebtedness of the corporation, exceed One Hundred per cent (100%) of the appraised value of the property of the corporation * * *.

The 6½ percent cumulative preferred serial stock was "entitled to receive in each year out of the surplus or net profits of the business of the corporation, dividends at the rate of 6½% per annum, and no more, upon the par value of said stock from date of issue, payable quarterly * * *." The dividends were cumulative and "if in any year or years the dividends * * * shall not have been paid, such dividends shall be paid in full before any dividends shall be paid or set apart upon the common stock. The amount of any serial redemption of said preferred stock, if overdue, shall be paid before any dividends shall be paid or set apart on the common stock."

In the event of liquidation, dissolution, or winding up of the corporation, the holders of the preferred stock were entitled, before any distribution could be made to the holders of the common stock, "to be paid out of the surplus profits * * *, or in case such profits shall be insufficient, then from the general assets of this corporation, an amount equal to 105% of the par value of said stock." Upon the maturity date specified in each series the shares were to "be redeemed at par, plus unpaid, accrued, and accumulated dividends thereon * * *." In the event the corporation should fail to redeem the stock

at such time and place, the holders were to "have the right to enforce payment of the par value of said stock so agreed to be redeemed, together with the amount of any unpaid, accrued, or accumulated dividends thereon, the same as on any unconditional claim or debt against the corporation * * *." The preferred stock was to have no voting power, the sole voting rights being vested in the holders of the common stock. In the event that any dividend on the preferred stock should not be paid when payable and should remain unpaid for ninety days, then so long as such dividend or any part thereof should remain unpaid, the issued and outstanding preferred stock was to be exclusively entitled to the voting power.

All of the common stock of petitioner, except directors' qualifying shares, was issued to the First Securities Co., an affiliate of petitioner. All of the stock of First Securities Co. and all of the stock of the two banks above named was owned by the Los Angeles Trust & Safe Deposit Co. as trustee in trust for the benefit of the owners of beneficial [31] certificates issued by the trustee. All of the stock of the trustee was likewise owned by the First Securities Co.

Pursuant to the original articles of incorporation during the years 1923, 1924, and 1925 petitioner issued and sold 6½ percent cumulative preferred serial stock of the total par value of \$4,500,000 in 23 series designated A to W, inclusive. Series A

matured and became payable on July 1, 1929, and one of the remaining series matured and became payable on July 1 of each year thereafter to and including the year 1951. The certificates were redeemable at par "plus all unpaid, accrued, or accumulated dividends thereon", and entitled the owners "to receive in each year out of the surplus or net profits of the business of the corporation, dividends at the rate of $6\frac{1}{2}\%$ per annum, and no more, upon the par value of said stock from date of issue * * *." The certificates also contained the essence of article fourth of the original articles of incorporation, including the provisions quoted above. During the years 1924 and 1925 petitioner also issued and sold its $5\frac{1}{2}$ percent coupon bonds of a total face value of \$3,000,000. The proceeds derived from the sale of the preferred stock and bonds were used for the purchase of real estate suitable for the purposes of the corporation.

In connection with the issuance and sale of petitioner's $6\frac{1}{2}$ percent cumulative preferred serial stock in 1923 a prospectus was published by the First Securities Co. Therein it was stated that petitioner proposed to issue at that time \$3,000,000 of $5\frac{1}{2}$ percent first mortgage bonds and \$3,000,000 $6\frac{1}{2}$ percent cumulative preferred stock and to hold in its treasury the balance of the authorized preferred stock for issuance from time to time as the needs of the company should require. The prospectus also stated: "it is the intention of the Realty Company (petitioner) to finance its present needs

by equal amounts of Preferred Stock and Bonds * * *. The annual maturities of bonds and stocks will serve to increase the original equity as the different series mature and are retired", and "The 6½% Cumulative Preferred Serial Stock is, in opinion of counsel, free from the Personal Property Tax in California and likewise free from the Normal Federal Income Tax."

Series A of the 6½ percent cumulative preferred serial stock matured and was redeemed on July 1, 1929. Series B to G, inclusive, matured and were redeemed respectively on July 1 of each year thereafter to and including 1935. At the beginning of the year 1936 6½ percent cumulative preferred serial stock of a total par value of \$3,766,500 was issued, outstanding, and unmatured. During the year 1936 all of said securities were redeemed and retired. During the year 1936 petitioner made payments to holders of said 6½ [32] percent cumulative preferred serial stock at the rate of 6½ percent per annum of the par value thereof, or \$65,300.63 as provided in the certificates.

At the time the securities referred to above were issued petitioner had a lease agreement with the Pacific Southwest Trust & Savings Bank under which the bank had obligated itself to pay as rental a sum which, with the other income of petitioner, would be sufficient to pay all of petitioner's operating expenses and in addition all interest, dividend, and amortization charges on its outstanding bonds and

preferred stock. The bank, as lessee, agreed to pay petitioner \$420,000 per annum for said property, the term of the lease being 30 years from and after July 1, 1923.

On December 16, 1927, petitioner's articles of incorporation were amended. A copy of article fourth as amended is attached to the stipulation of facts. There were no substantial changes made with respect to preferences, privileges, and other rights of the holders of preferred stock, but the amended article provided for a total authorized capital stock of 125,000 shares, divided into 75,000 shares of preferred stock of the par value of \$100 each and 50,000 shares of common stock having no nominal or par value. During the year 1928, pursuant to the authority contained in the article as amended, petitioner issued and sold its securities designated 5½ percent cumulative preferred serial stock of the total par value of \$1,000,000. The proceeds derived therefrom were used for the purchase of real estate suitable for the purposes of the corporation. The certificates were issued in 22 series designated AA to VV, inclusive, payable on July 1, 1939, and successively thereafter on July 1 of each year to and including the year 1960. Each certificate recited that on April 20, 1928, the board of directors "determined upon the issuance of \$1,000,000 (10,000 shares) fixed dividend rate, 5½%, fixed redemption premium, 2% (\$102.00 per share), designations and maturities as follows: (Schedule)."

The prospectus issued in connection with the 5½ percent cumulative preferred serial stock stated:

With the completion of the present stock sale, the Pacific Southwest Realty Company will have outstanding \$4,500,000 6½% Cumulative Preferred Serial Stock, and \$1,000,000 5½% Cumulative Preferred Serial Stock, in addition to 50,000 shares Common Stock of no par value, owned by the First Securities Company.

With the completion of the present financing on or about July 2, 1928, there will be outstanding \$5,100,000 of first mortgage bonds. The aggregate total par value of outstanding preferred stocks and bonds will then be \$10,600,000.

The prospectus also stated that the stock being offered was, "in opinion of counsel, free from the Personal Property Tax in California and likewise free from the Normal Federal Income Tax." [33]

During the year 1936 all of the 5½ percent cumulative preferred serial shares of the par value of \$1,000,000 were outstanding. All of them were redeemed and retired during the year 1937. During the years 1936 and 1937 petitioner made payments to the holders of said securities as provided in the certificates at the rate of 5½ percent of the par value thereof or \$55,000 during the year 1936 and \$41,250 during the year 1937.

The payments made by petitioner to the holders of its 6½ percent cumulative preferred serial stock

and 5½ percent cumulative preferred serial stock were authorized by resolutions of the board of directors of petitioner. A true copy of one of the resolutions is attached to the stipulation. It declares a "regular quarterly dividend of \$1.37½ a share on the 5½% Cumulative Preferred Serial Stock of this corporation, amounting to \$13,750 * * * out of the earned surplus of the corporation" and directs "that the amount thereof be set aside and transferred to 'Dividend Declared' account."

The 5½ percent cumulative preferred serial stock had been sold by the petitioner at discounts of \$3 and \$5 per \$100 par value, the discount aggregating \$46,858. It is stipulated that if the discount at which said securities were sold was a deductible expense, it was an expense which it was proper to amortize and deduct over the life of the securities and \$1,833.26 of said discount expense was properly allocable to the year 1936 and \$31,275.39 was properly allocable to the year 1937.

During the year 1936 petitioner redeemed and retired all of its then outstanding 6½ percent cumulative preferred serial stock for the face value thereof (\$3,766,500) plus a total premium of \$182,025. During the year 1937 it redeemed and retired all of its then outstanding 5½ percent cumulative preferred serial stock for the face value thereof (\$1,000,000) plus a total premium of \$20,000.

During the year 1929 petitioner sold certain real property located in the city of Los Angeles, California, under a conditional sales contract. Under

the provisions of the contract petitioner retained title to the property until the purchase price was paid. On November 15, 1935, by reason of the default of the purchaser of the property, petitioner canceled the sales contract and repossessed the property. At the time the property was repossessed by petitioner there were assessed but unpaid property taxes against it in the amount of \$5,618.35. These taxes were payable one-half on or before December 5, 1935, and one-half on or before April 20, 1936. During the year 1936 petitioner paid said property taxes in full. Petitioner deducted said sum of \$5,618.35, under the provisions of section 23 (c) of the Revenue Act of 1936, in computing its net taxable income for the year 1936. [34]

In its income tax return for the year 1936 petitioner failed to take deductions for the payments made on its securities designated 6½ percent cumulative preferred serial stock and 5½ percent cumulative preferred serial stock, failed to take deduction for the portion of the discounts at which its securities designated 5½ percent cumulative preferred serial stock were issued and sold which was allocable to the year 1936, and failed to take a deduction for the premium paid upon the redemption of its securities designated 6½ percent cumulative preferred serial stock. In its income tax return for the year 1936 petitioner reported net taxable income in the amount of \$562,740.52 and a tax liability in the amount of \$83,251.08. Petitioner paid this tax

in installments as follows: \$20,812.77 on March 15, 1937, and like amounts on June 12, September 13, and December 13, 1937. Petitioner's return for the year 1936 was filed on March 15, 1937.

Upon examination of petitioner's income tax return for the year 1936 the Commissioner disallowed the deduction taken by petitioner for real estate taxes in the amount of \$5,618.35 and determined the net income of petitioner for the year 1936 to be \$568,358.87. The deficiency for the year 1936 in the amount of \$842.75 resulted from the disallowance of said deduction and the consequent increase in petitioner's net income. In redetermining petitioner's net income for the year 1936 the Commissioner did not allow any deductions for the payments made by petitioner during said year on its securities designated 6½ percent cumulative preferred serial stock and 5½ percent cumulative preferred serial stock, did not allow a deduction for any portion of the discount at which petitioner's securities designated 5½ percent cumulative preferred serial stock were issued, and did not allow a deduction for the premiums paid by petitioner upon the redemption of its securities designated 6½ percent cumulative preferred serial stock.

On March 6, 1940, petitioner filed with the collector of internal revenue for the sixth district of California, at Los Angeles, California, its written claim for refund of income taxes overpaid by it for the year 1936 in the amount of \$53,900.53, setting forth therein the same facts and grounds here-

in alleged and relied upon. A true copy of said claim for refund is attached to the petition herein.

In its income tax return for the year 1937 petitioner deducted as interest paid the payments made on its securities designated 5½ percent cumulative preferred serial stock in the amount of \$41,250, deducted the sum of \$31,275.39 as the portion of the discount at which said securities were issued and sold which was properly allocable to the year 1937, and deducted the premium paid in the amount of \$20,000 upon the redemption of the securities. The Commissioner refused to allow these deductions. [35]

On May 22, 1940, petitioner paid to the collector of internal revenue for the sixth district of California the deficiencies in income taxes proposed to be assessed against it for the years 1936 and 1937. The payments were as follows: \$842.75 tax and \$161.09 interest, or a total payment of \$1,003.84 for the year 1936, and \$13,878.81 tax and \$1,820.21 interest, or a total payment of \$15,699.02 for the year 1937.

Petitioner contends that the securities designated 6½ percent or 5½ percent "Cumulative Preferred Serial Stock" were not what they purported to be—evidence of a proprietary interest in the corporation—but that collectively they represented an obligation of the corporation to make repayment to the holders and in the meantime to pay them interest. It therefore argues that it is entitled to deduct, as interest, the amounts paid under and pursuant to the corporate resolutions as dividends. It

also contends that it is entitled to deduct the portion of the discount properly allocable to the year 1936 and the premium paid during each of the years in connection with the redemption of the two classes of stock. Inasmuch as the latter deductions are proper if the securities were in fact obligations and the amount paid was interest (art. 22 (a)-18, Regulations 94), the three contentions may be considered together.

Numerous cases have been decided by the courts or this Board involving the same general question. None of them attempt to lay down any "comprehensive rule by which the question presented may be decided in all cases, and 'the decision in each case turns upon the facts of that case'." *Proctor Shop, Inc.*, 30 B. T. A. 721, 725, and cases cited. "If it be shown that dividends paid are, according to the intent of the parties, in fact interest, and the stock on which the dividends are paid is merely held by the creditor as security, it makes no difference what the reason was for paying in that form. The courts look to the real character of the payment * * *." *Wiggin Terminals, Inc. v. United States*, 36 Fed. (2d) 893, 898, quoted with approval by the Circuit Court of Appeals for the Ninth Circuit in affirming the decision of the Board in *Proctor Shop, Inc.*, *supra*; 82 Fed. (2d) 792. Cf. *Bolinger-Franklin Lumber Co.*, 7 B. T. A. 402; *Commissioner v. O. P. P. Holding Corporation*, 76 Fed. (2d) 11, affirming *O. P. P. Holding Corporation*,

30 B. T. A. 337; *Jewel Tea Co. v. United States*, 90 Fed. (2d) 451; *Helvering v. Richmond, F. & P. R. Co.*, 90 Fed. (2d) 971, affirming *Richmond, Fredericksburg Potomac Railroad Co.*, 33 B. T. A. 895; *Brush-Moore Newspapers, Inc.*, 37 B. T. A. 787; *Commissioner v. Palmer, Stacy-Merrill, Inc.*, 111 Fed. (2d) 809, affirming *Palmer, Stacy-Merrill, Inc.*, 37 B. T. A. 530; and *Commissioner v. Schmoll Fils Associated, Inc.*, 110 Fed. (2d) 611, reversing *Schmoll Fils Associated, Inc.*, 39 B. T. A. 411. [36]

It is true, as petitioner points out upon brief, that the cited cases establish some general principles—the name given by the parties to a particular security or to the payments made thereunder is not conclusively determinative; the true nature and character are to be determined not only from the terms and conditions of the security, but also from a consideration of all the facts and circumstances surrounding its issuance, including evidence aliunde the contract; and in every case the basic difference between the relationship of corporation and stockholder on the one hand and debtor and creditor on the other must always be kept in mind. We therefore examine the evidence and the stipulated facts in the light of these principles.

The only evidence aliunde the contract in the instant proceeding is that upon which we have based our finding to the effect that generally, in the purchase and sale of the certificates, dividends, though not declared, were taken into consideration in sub-

stantially the same manner and to substantially the same extent as accrued interest upon bonds is usually taken into consideration upon purchase and sale. There was no evidence, as in *Proctor Shop, Inc.*, and some of the other cited cases, indicating either that the issuing company desired to borrow money or that the holders were unwilling "to stand in the relation of a stockholder to the corporation." The facts show quite the contrary. The letter sent to prospective purchasers of the preferred stock, inviting them to subscribe for it, advised that the company proposed to finance its "present needs through the issuance of approximately equal amounts of preferred stock and bonds." The enclosed prospectus contained the same general statement, each indicating that the initial capital was to be obtained by borrowing 50 percent of the necessary amount through the issuance of bonds, while the remainder was to be obtained through the sale of preferred stock. This plan was carried out and \$3,000,000 of each was issued and sold. Both were later increased, so that prior to April 1, 1928, the company—in the language of its second prospectus—"had * * * sold for cash to institutions and investors an aggregate of \$5,000,000 First Mortgage 5½% Bonds and \$4,500,000 6½% Cumulative Preferred Serial Stock." At that time \$985,000 of its bonds had been retired. Then it was that the company decided to amend its articles of incorporation to permit it to issue \$1,000,000 5½ percent cu-

mulative preferred serial stock so that "with the completion of the present stock sale" there would be, as there ultimately were, \$5,500,000 outstanding cumulative preferred serial stock and \$5,100,000 of first mortgage bonds.

The facts referred to above indicate that petitioner intended the holders of the certificates to become, and to be, stockholders rather than creditors. It is apparent from the articles that petitioner never [37] intended to "borrow" more than 50 per cent of its funds. Thus it is stated: "The aggregate indebtedness of the corporation secured by mortgage, deed of trust, or otherwise, shall not exceed in amount Fifty per cent (50%) of the appraised value of the property subject thereto. The total amount of preferred stock of the corporation at any time outstanding shall not, together with the total bonded indebtedness of the corporation, exceed One Hundred per cent (100%) of the appraised value of the property of the corporation." If the preferred stock be held to be indebtedness, "secured by mortgage, deed of trust *or otherwise*",* and unless the appraised value of the property was greatly in excess of its actual cost, which we hesitate to assume, then this provision of petitioner's charter was violated; for while the aggregate of the admitted bonds, plus the "so-called" preferred stock was \$10,600,000, "the aggregate cost of the Company's properties including those heretofore owned with those now being purchased, and including the new buildings

*Italics appear in original.

which have been erected, (according to the prospectus) will be in excess of \$11,200,000."

Moreover, there are several other circumstances which collectively convince us that both the issuing corporation and those who ultimately became holders of the securities intended that the relationship between them was to be that of corporation and stockholder rather than debtor and creditor. Each prospectus contained in its heading, in bold type, "In opinion of counsel, exempt from Normal Federal Income Tax," and a more detailed statement to the same effect in the body of the document. No evidence was introduced to show whether the holders of the securities so treated the income derived from the securities—i.e., as dividends and subject only to surtax (see for example section 25, Revenue Act of 1928)—but it may be assumed, in the absence of any proof to the contrary, that they relied upon the statements contained in the prospectuses. In any event it is not wholly without significance that petitioner treated the payments as dividends upon its books and in all of its returns of income prior to 1937. Manifestly the representation that the income was "free from Normal Federal Income Tax" would be true only if the securities were preferred stock. In determining whether they were, or were not, what they purport to be, we must look, not only to the language of the certificates, but to the articles and amended articles of incorporation. They specify, in considerable detail, not only that preferred stock be issued, but also require that "Be-

fore the issuance of any such stock, the President of the Corporation shall file a certificate in the office of the corporation setting forth in detail the property purchased or to be purchased with the proceeds of the sale of such stock." The stock so issued was to "be entitled to receive in each year out of the surplus or net profits [38] of the business of the corporation, dividends at the fixed dividend rate" specified in the certificates. If in any year "the dividends" on such stock have not been paid "such dividends shall be paid in full before any dividends shall be paid or set apart upon the common stock." The use of the word "dividends" many times in the articles of incorporation and the requirement that payment of such be made "out of the surplus or net profits" can not be ignored. Wholly absent from the articles is any requirement that the annual payments upon the certificates be made regardless of earnings, except for the provisions which we shall now discuss and upon which petitioner places its chief reliance.

Each series was to "be redeemed at par, plus unpaid, accrued, and accumulated dividends thereon." "In the event that the corporation shall fail to redeem * * * at such time and place, the holders thereof shall have the right to enforce payment of the par value of said stock so agreed to be redeemed, together with the amount of any unpaid, accrued, or accumulated dividends thereon, the same as on any unconditional claim or debt against the corporation * * *." "In the event of any liquidation, disso-

lution, or winding up of the corporation, * * * the holders * * * shall be entitled, before any distribution shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining intact, or in case such profits shall be insufficient, then from the general assets of this corporation, an amount equal to 105% of the par value of said stock." These provisions, petitioner contends, make the securities an "indebtedness." Respondent denies that they have any such effect, points out that the right to enforce the payment as an unconditional claim or debt appears to be limited to the holders of any series then in default, which, so far as this record shows, never occurred, and argues that "the interest of any person in the assets of a corporation must necessarily be either as a creditor or as a proprietor", but can not be both at the same time.

In practically every case decided by the courts or this Board it has been pointed out that each case must be decided on its own particular facts. *Dayton & Michigan Railroad Co.*, 40 B. T. A. 857; *Trianon Hotel Co.*, 44 B. T. A. 1073. "The authorities afford us no very certain guide in solving the difficult problem before us, but vary with the particular facts of each case." *Commissioner v. Schmoll Fils Associated, Inc.*, *supra*. Many facts and circumstances in the instant proceeding indicate that the corporation and the purchasers of the securities intended that

the relation should be proprietary rather than that of a creditor and debtor. Some of the significant facts and circumstances upon which we have relied in reaching our conclusion have [39] already been referred to. Others are: The name given to the securities by petitioner in its articles of incorporation, in its letters and prospectuses, and in the securities themselves. While the name given is not determinative, it should not lightly "be assumed that the parties have given an erroneous name to their transaction." *Schmoll Fils Associated, Inc.*, supra; *I. Unterberg & Co.*, 2 B. T. A. 274; *Kentucky River Coal Corporation*, 3 B. T. A. 644; *H. R. DeMilt Co.*, 7 B. T. A. 7. There is no evidence in the record indicating that either petitioner or the holders prior to the taxable years ever contended that there was any misnomer. Nor should it be overlooked that the certificates specifically referred to the holders as "stockholders" and to the payments as "dividends", that no payments were ever made except following the declaration of a dividend, and that all payments were made from profits. The dividends, after declaration, were set aside and transferred to "dividend declared" account.

Meridian & Thirteenth Realty Co., 44 B. T. A. 865, decided since briefs were filed in the instant proceeding lends some support to petitioner's contention. It was there held that a security designated preferred stock, having a fixed maturity

date, and requiring the payment of the agreed 6 percent regardless of profits represented an indebtedness. The proceedings are distinguishable in that in the cited case there was no evidence that any bonds had been issued by the corporation or that it had any other outstanding evidence of debt; a conclusion that the securities were in fact obligations did not require a holding that the corporation had violated its articles of incorporation; no representations were made that the securities were free from the normal Federal income tax; the company had not represented in connection with the issuance of such stock that it proposed to finance its needs through the issuance of equal amounts of preferred stock and bonds; and the issuing company had not, as in the instant proceeding, given the holders of the preferred stock a right to vote in the event of default in the payment of dividends, though withholding from the bondholders such privilege. Moreover, we think it is quite doubtful, in spite of the provision contained in the articles of incorporation and in the certificates purporting to give the holders of the preferred stock rights which they might enforce as creditors, that any such rights could be enforced under the stipulated facts to the detriment of general creditors or bondholders.

We are of the opinion and hold that the securities were what they purported to be. Compare *Brown-Rogers-Dixson Co. v. Commissioner* (C. C.

A., 4th Cir.), — Fed. (2d) — (Aug. 26, 1941). It follows that the respondent committed no error in denying the claimed deductions for interest, discount, and premiums. [40]

The petitioner's next contention is that it is entitled to a deduction of \$5,618.35, for real estate taxes paid by it in 1936. The amount in question was assessed on May 1, 1935, when the real estate was in the possession of petitioner's vendee under the conditional sales contract. Petitioner repossessed the property on November 15, 1935, the vendee having defaulted in the payment of the purchase price. The taxes were payable one-half on or before December 5, 1935, and one-half on or before April 20, 1936. Petitioner paid the entire amount during 1936 and in its income tax return for that year claimed a deduction in that amount as "taxes." Respondent disallowed the deduction on the ground that the amount paid constituted additional cost of the property repossessed.

The petitioner contends that it was the legal owner of the property and, as such, legally responsible for the payment of the taxes at the time of assessment. It argues, therefore, that it should be allowed the deduction since the amount represented taxes paid after, but which accrued before, repossession of the property. In support of its contention it cites and relies upon two unreported memorandum decisions of this Board wherein less-

ors of property were allowed to deduct taxes assessed during the time repossessed property was in the possession of the lessees. The conclusion that a lessor may deduct the taxes paid by him upon his property, notwithstanding the fact that a lessee may have covenanted to pay them as part of the consideration for the occupancy of the property, is not particularly helpful in determining the question now before us.

Respondent concedes that petitioner retained the legal title to the property which it sold in 1929. He takes the position, however, that it was a bare, naked legal title; that the equitable title was in the purchaser from the time of the sale in 1929; that it remained in him until the property was repossessed by the petitioner in November 1935; and that petitioner, having sold the property, had no alternative except to give the purchaser legal title upon payment of the agreed purchase price. He therefore contends that petitioner was holding the legal title to the property more in the nature of a trustee for the benefit of the purchaser than as an owner of the property as that term is ordinarily understood. He insists that, inasmuch as the taxes in question were assessed and became a lien against the property in March 1935, petitioner was paying an obligation, or an accrued liability, of its vendee when it, in 1936, paid the 1935 real estate taxes.

The parties have stipulated that the property was sold by petitioner during 1929 under a condi-

tional sales contract. The contract was not introduced in evidence. A "conditional sale" has been defined to be a contract for the sale of property under which possession is delivered [41] to the buyer, but title is retained in the seller until the performance of some condition, usually the payment of the purchase price. 55 C. J. 1192. The rights of the vendor and vendee under such a contract have been discussed by the courts of California in a number of cases. In *Oaks v. Kendall*, 73 Pac. (2d) 1255; 23 Cal. App. (2d) 715, the court pointed out that the vendor under such a contract retains an absolute right to hold the property as security for the payment of the purchase money according to the express terms of the contract, and quoted with approval the following excerpt from 25 California Jurisprudence, p. 762, sec. 930:

* * * In the ordinary executory contract for the sale of real property the vendor retains title as security for the payment of the purchase money and as trustee for the purchaser, who has only an equitable estate in the land. The position of the vendor is similar in some respects to that of a mortgagee. He has no greater rights than he would possess if he had conveyed the land and taken back a mortgage for unpaid purchase money, or than is held by a mortgagee who takes for his security a conveyance absolute in form instead

of a formal mortgage, except that he is not restricted to a remedy by foreclosure. A vendor is frequently said to have a lien on the property so long as he retains title, though properly speaking he has no lien, nor any need of one, since he has the complete legal title which he holds as a pledge for payment of the purchase money.

In *San Diego County ex rel. Whelan v. Davis*, 33 Pac. (2d) 827, involving the question of liability for property tax on an automobile, the Supreme Court of California, *per curiam*, said:

The tax must be levied on the owner of the property, but this does not necessarily mean the holder of the legal title. In a conditional sale, the title in the seller is for security only, to assure the payment of the purchase price. It carries with it none of the ordinary incidents of ownership. The buyer has the possession and use of the property to the complete exclusion of the seller subject only to the seller's remedies in case of default. Both in a practical and a legal sense the buyer is the beneficial owner.

In *Thompson on Real Property*, vol. 5, sec. 4526, the author states: "There can be no sensible distinction between the case of a legal title conveyed to secure the payment of a debt and a legal title retained to secure payment." While there are some

points of difference between the relation of vendor and vendee under a conditional sales contract and that of equitable mortgagee and mortgagor where the vendee holds an equity which is subject to foreclosure by the vendor, we do not think the difference is of such a substantial nature as to warrant the allowance of a deduction for taxes when paid by the vendor after the property is repossessed although such allowance would not be granted following foreclosure of the mortgage by the equitable mortgagee.

Under the laws of California, the liability for county and city taxes is determined by the ownership of property on the first Monday [42] in March. *California Sanitary Co., Ltd.*, 32 B. T. A. 122; *Crown Zellerbach Corporation*, 43 B. T. A. 541 (on appeal C. C. A., 9th Cir.). (Sec. 3628, Political Code of California.) Petitioner's vendee was the beneficial owner and had possession and control of the property on that date, and thus became liable for the payment of the real estate taxes here involved. Petitioner's payment of such taxes in 1936, after it had repossessed the property in November of 1935, does not in our opinion make such taxes its taxes or entitle it to the claimed deduction. Cf. *Commissioner v. Coward*, 110 Fed. (2d) 725; *Lifson v. Commissioner*, 98 Fed. (2d) 508; certiorari denied, 305 U. S. 662; *Estate of Lucy S. Shieffelin*, 4 B. T. A. 137; *Helvering v. Missouri State Life Insurance Co.*, 78 Fed. (2d) 778; *John Hancock Mutual Life Insurance Co.*, 10 B. T. A. 736.

Finding no error in the deficiencies determined by the respondent they must be approved. It follows that petitioner's claim for overpayment can not be allowed.

Decision will be entered for the respondent. [43]

United States Board of Tax Appeals
Washington

Docket No. 102605

PACIFIC SOUTHWEST REALTY CO.,
Petitioner,

v.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

DECISION

Pursuant to the determination of the Board, as set forth in its opinion promulgated October 24, 1941, it is Ordered and Decided: That there are deficiencies in income tax for the calendar years 1936 and 1937 in the respective amounts of \$842.75 and \$13,878.81.

Enter:

(Signed) ARTHUR J. MELLOTT

[Seal] Member.

Entered: Oct. 27, 1941. [44]

[Title of Board and Cause.]

PETITION FOR REVIEW BY THE UNITED
STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.

To the Honorable Judges of the United States
Circuit Court of Appeals for the Ninth Cir-
cuit:

Comes now Pacific Southwest Realty Company,
by its attorneys, Claude I. Parker, John B. Mil-
liken, Bayley Kohlmeier and L. A. Luce, and re-
spectfully shows:

Pacific Southwest Realty Company respectfully
petitions the United States Circuit Court of Ap-
peals for the Ninth Circuit to review the decision
of the United States Board of Tax Appeals en-
tered on October 27, 1941 (Opinion promulgated
October 24, 1941, 45 B. T. A. No. 74) in which the
Board of Tax Appeals determined deficiencies in
income taxes due from the petitioner for the calen-
dar years 1936 and 1937 in the amounts of \$842.75
and \$13,878.81, respectively, and further deter-
mined that petitioner was not entitled to a refund
of taxes paid by it for the year 1936. [45]

I.

Jurisdiction

Petitioner is a corporation duly organized and
existing under the laws of the State of Delaware
and has its principal office in the City of Los An-
geles, State of California. Petitioner's income tax

returns for the years 1936 and 1937 were filed with the Collector of Internal Revenue for the Sixth Internal Revenue Collection District of California located in the City of Los Angeles, State of California, and within the jurisdiction of the Circuit Court of Appeals of the Ninth Judicial Circuit. The jurisdiction of this Court to review the decision of the United States Board of Tax Appeals aforesaid is founded on Section 1141 Internal Revenue Code, Title 26, United States Code, Section 1141, U. S. C. A.

The Commissioner of Internal Revenue determined deficiencies in petitioner's income taxes for the years 1936 and 1937 in the amounts of \$842.75 and \$13,878.81, respectively, and on February 21, 1940, in accordance with the provisions of Section 272 of the Internal Revenue Code sent to petitioner by registered mail a notice of said deficiencies. On March 6, 1940 petitioner filed with the Collector of Internal Revenue for the Sixth District of California, at Los Angeles, California, its written claim for refund of income taxes overpaid by it for the year 1936 in the amount of \$53,900.53. On May 15, 1940 petitioner filed its appeal to the United States Board of Tax Appeals from the aforesaid determination of deficiencies and prayed therein for determination that there were no deficiencies due from petitioner for income taxes for the years 1936 and 1937 and for a further determination that petitioner overpaid its income taxes for [46] the year 1936 in the amount of \$53,900.53. Said appeal was

called for hearing before the United States Board of Tax Appeals on February 20, 1941 at Los Angeles, California. A stipulation of facts was filed with the Board and oral and documentary evidence was presented. The Board of Tax Appeals rendered its decision approving the deficiencies determined by the Commissioner, as aforesaid, and further determining that the petitioner did not overpay its income taxes for the year 1936. Said decision was entered on October 27, 1941.

II.

Nature of Controversy

The controversy herein involves petitioner's correct income tax liability for the years 1936 and 1937. During the years 1936 and 1937 petitioner had outstanding certain securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock. Under the terms of petitioner's certificate of incorporation and the terms and conditions on which the aforesaid securities were issued and sold, petitioner was required to make quarterly payments, called dividends, to the holders of said securities at the rate of 6½% and 5½% per annum respectively of the par or face value of said securities. Petitioner was further required to repay to the holders of said securities the par value thereof, plus all accrued and unpaid so-called dividends, on or before a date specified in petitioner's certificate of incorporation and set forth on the certificates which represented

said securities. It was further specifically provided that in the event petitioner failed to redeem said securities at the time specified—"the holders [47] thereof shall have the right to enforce payment of the par value of said stock so agreed to be redeemed, together with the amount of any unpaid or accrued dividends thereon, the same as any unconditional claim or debt against the corporation.

* * * "

During the year 1936 petitioner made payments of so-called dividends to the holders of said securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock in the amounts of \$65,300.63 and \$55,000.00, respectively. During the year 1937 petitioner made payments of so-called dividends to the holders of 5½% Cumulative Preferred Serial Stock in the amount of \$41,250.00. Said securities designated 5½% Cumulative Preferred Serial Stock were issued at discounts, \$1,833.26 of which was allocable to the year 1936 and \$31,275.39 of which was allocable to the year 1937. During the year 1936 petitioner redeemed all of its then outstanding 6½% Cumulative Preferred Serial Stock at par, plus a premium of \$182,025.00. During the year 1937 petitioner redeemed its 5½% Cumulative Preferred Serial Stock at par, plus a premium of \$20,000.00.

During the year 1935 petitioner repossessed certain real estate previously sold by it on a condi-

tional sales contract under which petitioner retained title to said property until the purchase price was paid. At the time of repossession, property taxes in the amount of \$5,618.35 were assessed against said property but unpaid. During the year 1936 petitioner paid said property taxes. In its income tax return for the year 1936 petitioner did not claim as deductions to \$65,300.63 paid to the holders of the 6½% Cumulative Preferred Serial Stock, the \$55,000.00 paid to the holders [48] of the 5½% Cumulative Preferred Serial Stock, the portion of the discount at which the 5½% Cumulative Preferred Serial Stock was issued or the \$182,025.00 paid as a premium on the redemption of said 6½% Cumulative Preferred Serial Stock. In said return petitioner did deduct as taxes paid the amount of \$5,618.35 paid as taxes on the property repossessed, as aforesaid. On March 6, 1940 petitioner filed its claim for refund of taxes overpaid for the year 1936, in which the aforesaid deductions were claimed.

In its income tax return for the year 1937 petitioner deducted the \$41,250.00 paid by it to the holders of the 5½% Cumulative Preferred Serial Stock as interest paid. deducted the amount of \$31,275.39 as the portion of the discount at which said 5½% Cumulative Preferred Serial Stock was issued, which was allocable to the year 1937, and deducted the amount of \$20,000.00 paid as premium on the redemption of the 5½% Cumulative Preferred Serial Stock.

The Commissioner of Internal Revenue determined that the \$5,618.35 paid by petitioner as taxes, as aforesaid, during the year 1936 was a capital expenditure and was not deductible as taxes paid, and determined a deficiency for the year 1936 in the amount of \$842.75. The Commissioner further determined that petitioner's securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock were preferred stocks and not indebtedness of petitioner to the holders of said securities, that the payments thereon were dividends and were not interest and that the petitioner was not entitled to deductions for the payments made on said securities, for any portion of the discount for which [49] said securities were issued or for the premium paid on the redemption of said securities. The Commissioner refused to allow the deductions for the aforesaid items in computing the deficiency for the year 1936 and disallowed the deductions taken for said items in petitioner's income tax return for the year 1937. The Commissioner determined a deficiency for the year 1937 in the amount of \$13,878.81. The Board of Tax Appeals in its decision approved the determinations of the Commissioner.

III.

ASSIGNMENTS OF ERROR.

In making and rendering its decision, as aforesaid, the United States Board of Tax Appeals com-

mitted the following errors on which your petitioner relies as the basis for this proceeding:

The United States Board of Tax Appeals erred—

1. In determining a deficiency in petitioner's income tax for the year 1936 in the amount of \$842.75.

2. In failing to determine that petitioner overpaid its income taxes for the year 1936 in the amount of \$53,900.53.

3. In determining a deficiency in petitioner's income tax for the year 1937 in the amount of \$13,878.81.

4. In determining that the securities issued by petitioner and designated as 6½% Cumulative Preferred Serial Stock were preferred stock.

5. In failing and refusing to determine that the securities issued by petitioner and designated as 6½% Cumulative Preferred Serial Stock evidenced indebtedness of the petitioner to the holders of said securities. [50]

6. In determining that the securities issued by petitioner and designated as 5½% Cumulative Preferred Serial Stock were preferred stock.

7. In failing and refusing to determine that the securities issued by petitioner and designated as 5½% Cumulative Preferred Serial Stock evidenced indebtedness of the petitioner to the holders of said securities.

8. In failing and refusing to determine that the sum of \$65,300.63 paid by the petitioner during the

year 1936 to the holders of its securities designated 6½% Cumulative Preferred Serial Stock was interest paid on indebtedness within the meaning of Section 23(b) of the Revenue Act of 1936.

9. In determining that the sum of \$65,300.63 paid by petitioner during the year 1936 to the holders of its securities designated 6½% Cumulative Preferred Serial Stock was not deductible as interest paid on indebtedness.

10. In failing and refusing to determine that the sum of \$55,000.00 paid by the petitioner during the year 1936 to the holders of its securities designated 5½% Cumulative Preferred Serial Stock was interest paid on indebtedness within the meaning of Section 23(b) of the Revenue Act of 1936.

11. In determining that the sum of \$55,000.00 paid by petitioner during the year 1936 to the holders of its securities designated 5½% Cumulative Preferred Serial Stock was not deductible as interest paid on indebtedness.

12. In failing and refusing to determine that the sum of \$41,250.00 paid by the petitioner during the year 1937 to the holders [51] of its securities designated 5½% Cumulative Preferred Serial Stock was interest paid on indebtedness within the meaning of Section 23(b) of the Revenue Act of 1936.

13. In determining that the sum of \$41,250.00 paid by petitioner during the year 1937 to the holders of its securities designated 5½% Cumula-

tive Preferred Serial Stock was not deductible as interest paid on indebtedness.

14. In failing and refusing to determine that petitioner was entitled to a deduction for the year 1936 for the portion of the discount at which its securities designated 5½% Cumulative Preferred Serial Stock were sold which was allocable to 1936.

15. In failing and refusing to determine that petitioner was entitled to a deduction for the year 1937 for the portion of the discount at which its securities designated 5½% Cumulative Preferred Serial Stock were sold which was allocable to 1937.

16. In failing and refusing to determine that petitioner was entitled to a deduction for the year 1936 in the amount of \$182,025.00 for the premium paid by petitioner during the year 1936 on the redemption of its securities designated 6½% Cumulative Preferred Serial Stock.

17. In failing and refusing to determine that petitioner was entitled to a deduction for the year 1937 in the amount of \$20,000.00 for the premium paid by petitioner during the year 1937 on the redemption of its securities designated 5½% Cumulative Preferred Serial Stock.

18. In failing and refusing to determine that petitioner was entitled to a deduction for real estate taxes paid by petitioner during the year 1936 in the amount of \$5,618.35. [52]

Wherefore, your petitioner prays that this Honorable Court may review the decision and order of the United States Board of Tax Appeals, set

aside the same and direct the entry of a decision by said Board determining that there are no deficiencies in income taxes due from the petitioner for the years 1936 and 1937 and further determining that petitioner overpaid its income taxes for the year 1936 in the amount of \$53,900.53 and for such other and further relief as to this Court may seem proper in the premises.

Respectfully submitted,

CLAUDE I. PARKER

JOHN B. MILLIKEN

BAYLEY KOHLMEIER

808 Bank of America Building,
Los Angeles, California

Attorneys for Petitioner.

Of Counsel:

L. A. LUCE

937 Munsey Building,
Washington, D. C.

[Endorsed]: U. S. B. T. A. Filed Dec. 26, 1941.

[53]

[Title of Board and Cause.]

NOTICE OF FILING PETITION FOR
REVIEW

To the Honorable Guy T. Helvering, Commissioner
of Internal Revenue, Washington, D. C., and
the Honorable J. P. Wenchel, Chief Counsel
of the Bureau of Internal Revenue, Attorney
for Respondent, Washington, D. C.

You and each of you are hereby notified that on
the 26th day of December, 1941, the Pacific South-
west Realty Company filed with the Clerk of the
United States Board of Tax Appeals its Petition
for Review by the United States Circuit Court of
Appeals for the Ninth Circuit of the decision of
the United States Board of Tax Appeals hereto-
fore rendered in the above entitled cause.

A copy of the petition as filed is attached hereto
and [54] served upon you.

Dated: Dec. 26, 1941.

CLAUDE I. PARKER,
JOHN B. MILLIKEN
BAYLEY KOHLMEIER

808 Bank of America Build-
ing

Los Angeles, California

Attorneys for Petitioner

Of Counsel:

L. A. LUCE

937 Munsey Building,

Washington, D. C.

Service of the foregoing Notice of Filing and a copy of Petition for Review is hereby acknowledged this 26th day of Dec., 1941.

J. P. WENCHEL,
C.A.R.

Attorney for Respondent.

[Endorsed]: U. S. B. T .A. Filed Dec. 26, 1941.

[55]

[Title of Board and Cause.]

STATEMENT OF EVIDENCE

The following is a statement of the evidence submitted to the United States Board of Tax Appeals in the above cause so far as is necessary to the assignments of error filed herein.

The above entitled case came on for hearing at Los Angeles, California before the Honorable Arthur J. Mellott, Member of the United States Board of Tax Appeals, on February 20, 1941, Claude I. Parker, Bayley Kohlmeier and Stuart T. Baron appearing on behalf of petitioner and E. A. Tonjes appearing on behalf of the respondent.

After the opening statements by counsel for the parties there was offered and received by the Board a Stipulation of Facts with exhibits attached thereto. A true copy of said Stipulation of Facts and the exhibits thereto is attached hereto as Exhibit No. 1 and is by this reference hereby made a part of this Statement of Evidence. Thereupon there was of-

ferred and received in evidence as Joint Exhibit A-1 the income and excess-profits tax return of Pacific Southwest Realty Company for the year 1936. Thereupon there was offered and received in evidence as Joint Exhibit B-2 the income and [56] excess-profits tax return of the Pacific Southwest Realty Company for the year 1937. Photostatic copies of said returns are attached hereto and made a part hereof as Joint Exhibits A-1 and B-2.

Form 1120
TRAFFIC DEPARTMENT
INCOME TAX
(United States)

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

For Calendar Year 1936

Page 1 of Return

or Fiscal Year began 1936, and ended 1937
FIRST PLINLY CORPORATION'S NAME AND BUSINESS ADDRESS

Pacific Southwest Realty Company

215 West Sixth Street

Los Angeles Los Angeles California

Not Essential, Except Where Otherwise Provided in the Instructions, That This Form be Completely Filled In Respect of Any Statements, Schedules, or Reports Submitted Herewith

File Code 18
Serial Number
Debtor (if debtor's name)

EXCESS-PROFITS TAX COMPUTATION

Item No.	Item Description	Amount	Item No.	Item Description	Amount
1	Value of capital stock as declared in your capital-stock tax return for year ended June 30, 1936 (or your capital-stock tax return for year ended June 30, 1937, if your income tax fiscal year began in 1936 and ended on or after July 31, 1937)	3 500 000 00	7	Net income subject to excess-profits tax (amount of item 6)	None
2	Net income for excess-profits tax computation (item 27, page 2)	562 740 52	8	Amount taxable at 6 percent (item 7 or 8 percent of item 1, whichever is less)	None
3	Less: Dividends received credit (65 percent of item 12 (a), page 2)		9	Amount taxable at 12 percent (item 7 minus item 8)	None
4	Balance of net income	562 740 52	10	Excess-profits tax at 6 percent (6 percent of item 8)	
5	Less: 10 percent of item 11	56 274 05	11	Excess-profits tax at 12 percent (12 percent of item 9)	
6	Net income subject to excess-profits tax (carry forward as item 7)	None	12	Total excess-profits tax (total of items 10 and 11)	None

Note.—Where an affiliated group of railroad corporations makes a consolidated income tax return, the common parent corporation and each subsidiary which is liable for the making of an excess-profits tax return must make a separate excess-profits tax return on this form. (See Instruction 28.)

INCOME TAX COMPUTATION

NORMAL TAX

13	Net income for income tax computation (item 20, page 2)	562 740 52
14	Less: Interest on obligations of United States, etc. (item 8, page 2)	
15	Dividends received credit (85 percent of item 12 (a), page 2) (this credit not allowed to mutual investment companies)	
16	Dividends paid credit (this credit allowed only to mutual investment companies)	
17	Normal-tax net income (item 13 minus items 14 and 15 or 14 and 16)	562 740 52
18	Tax on portion of item 17 not in excess of \$7,000	160 00
19	Tax on portion of item 17 in excess of \$7,000 and not in excess of \$15,000	1 430 00
20	Tax on portion of item 17 in excess of \$15,000 and not in excess of \$40,000	3 250 00
21	Tax on portion of item 17 in excess of \$40,000	78 411 08
22	TOTAL NORMAL TAX (Amount of tax in items 18 to 21, inclusive)	83 251 08

* Foreign corporations engaged in trade or business within the United States or having an office or place of business therein are taxable at the rate of 22 percent on item 17, and certain banks and trust companies (see Instruction 31), corporations entitled to the benefits of Section 281 of the Revenue Act of 1936, corporations organized under the China Trade Act, 1923, and insurance companies are taxable at the rate of 18 percent on item 17, instead of at the rates prescribed in items 18 to 21, inclusive, above. In such case the amount of tax should be entered as item 22, and the taxpayer's classification should be indicated by a check mark (✓) in the appropriate box space in this note.

SURTAX ON UNDISTRIBUTED PROFITS

(See Instruction 32 respecting corporations exempt from surtax)

23	Net income for surtax computation (item 20, page 2)	562 740 52
24	Less: Normal tax (item 22, above)	83 251 08
25	Interest on obligations of United States, etc. (item 8, page 2)	
26	Credit allowable to holding company affiliate (see Instruction 33)	
27	Credit allowable to national mortgage association (see Instruction 34)	
28	Adjusted net income (item 23 minus items 24-27)	479 489 44
29	Less: Dividends paid credit (see Instruction 28)	
30	Credit for contracts restricting dividend payments (see Instruction 26)	
31	Undistributed net income (item 28 minus items 29 and 30)	None
32	Less: Specific credit allowable only where adjusted net income (item 28, above) is less than \$50,000 (item 31 or \$5,000, whichever is less, minus 10% of item 28) (see Instruction 37)	None
33	Remainder subject to surtax (item 31 minus item 32)	None
34	Tax on portion of item 33 not in excess of 10% of item 28	
35	Tax on portion of item 33 in excess of 10% and not in excess of 20% of item 28	
36	Tax on portion of item 33 in excess of 20% and not in excess of 40% of item 28	
37	Tax on portion of item 33 in excess of 40% and not in excess of 60% of item 28	
38	Tax on portion of item 33 in excess of 60% of item 28	
39	Amount of tax in items 34 to 38, inclusive	None
40	Plus: 7% of amount of specific credit (item 32)	
41	TOTAL SURTAX (item 39 plus item 40)	None
42	TOTAL NORMAL TAX AND SURTAX (item 22 plus item 41)	83 251 08
43	Less: Income tax paid to a foreign country or United States possession by a domestic corporation (see Instruction 36)	
44	BALANCE OF TAX (item 42 minus item 43)	83 251 08

a-1

Date of incorporation May 31, 1923 Under the laws of the State of California

The corporation's books are in care of William Murphy, A. L. & Son, 1211 1/2 S. 1st Street, Los Angeles, California

Kind of business (in detail) Improved real estate Is this a consolidated return of railroad corporations? No If so, (also check industrial division on page 4)

If this is not a consolidated income tax return of railroad corporations, did the corporation at any time during its taxable year own 80 percent or more of the voting stock of another corporation or corporations? Yes If so, attach separate schedule showing with respect to each corporation: (1) name and address of corporation, (2) percentage of stock owned, (3) date stock was acquired, and (4) the collector's office in which the corporation's income tax return for the taxable year was filed.

Is the corporation a personal holding company within the meaning of Section 351 of the Revenue Act of 1936? No (If so, an additional return on Form 1120H must be filed.)

Did the corporation make a return of information on Forms 1096 and 1099 (see Instruction 46) for the calendar year 1936? Yes

NET INCOME COMPUTATION

GROSS INCOME		Less Returns and Allowances, \$		Net Sales, \$	
1. Gross Sales (where inventories are an income-determining factor), \$					
2. Less Cost of Goods Sold:					
(a) Inventory at beginning of year					
(b) Material or merchandise bought for manufacture or sale					
(c) Miscellaneous costs (from Schedule A, Column 1):					
(1) Salaries and wages, \$					
(2) Other costs, \$					
(d) Total of lines (a), (b), and (c)					
(e) Less inventory at end of year					
3. Gross Profit from Sales (Item 1 minus Item 2)					
4. Gross Receipts (where inventories are not an income-determining factor), \$					
5. Less cost of operations (from Schedule A, Column 2):					
(a) Salaries and wages, \$					
(b) Other costs, \$					
(c) Total					
6. Gross Profit where inventories are not an income-determining factor (Item 4 minus Item 5)					
7. Interest on Loans, Notes, Mortgages, Bonds, Bank Deposits, etc.				44	28
8. Interest on Government obligations, etc. (from Schedule M, Lines 4 (a) (6) and (7))					
9. Rents				1,307	655 52
10. Royalties					
11. Capital Gain or Loss (from Schedule B) (If loss, enter such loss or \$2,000, whichever is less)				2	000 00
12. Dividends on Stock of:					
(a) Domestic Corporations subject to taxation under Title I of Revenue Act of 1936					
(b) Domestic Corporations not subject to taxation under Title I of Revenue Act of 1936					
(c) Foreign Corporations					
13. Other Income (State nature of income) (Use separate schedule, if necessary) Schedule M, No. 1, attached				45	165 72
14. TOTAL INCOME IN ITEMS 3 AND 6 TO 13, INCLUSIVE				350	865 52
DEDUCTIONS					
15. Compensation of Officers (from Schedule C)					
16. Rent on Business Property					
17. Repairs (from Schedule E): (a) Salaries and Wages, \$; (b) Other Costs, \$; Total					
18. Bad Debts (from Schedule F); also bonds determined to be worthless during taxable year (explain on separate sheet)					
19. Interest Paid (from Schedule G)				244	574 33
20. Taxes Paid (from Schedule H). (Do not include Federal Excess-Profits Tax Reported in Item 28, below)				182	863 80
21. Contributions or Gifts (from Schedule I)					
22. Losses by Fire, Storm, etc. (from Schedule J)				6	582 73
23. Depreciation (resulting from exhaustion, wear and tear, or obsolescence) (from Schedule K)				131	881 10
24. Depletion of Mines, Oil and Gas Wells, Timber, etc. (Submitt schedule, see Instruction 24)					
25. Other Deductions Authorized by Law (explain below, or on separate sheet):					
(a) Salaries and wages. (Not included in Items 3, 8, 15, or 17 above)				136	833 07
(b) Stock determined to be worthless during the taxable year					
(c) Schedule M, No. 2 attached				85	389 97
26. TOTAL DEDUCTIONS IN ITEMS 15 TO 25, INCLUSIVE				788	125 00
27. NET INCOME FOR EXCESS-PROFITS TAX COMPUTATION (Item 14 minus Item 26)				562	740 52
28. LESS: FEDERAL EXCESS-PROFITS TAX (Item 12, Page 1)					None
29. NET INCOME FOR INCOME TAX COMPUTATION (Item 27 minus Item 28)				562	740 52

122

2. COST OF OPERATIONS (WHICH INVENTORIES ARE NOT AN INCOME DETERMINING FACTOR)

4000 57
21000

State and local
authorities

(See Instructions 11)

Gain or Loss (enter net amount as item 11, page 2; if net amount is a loss, enter 11 if amount is \$2,000, whichever is less)

(2) whether at time of sale or exchange purchaser owned more than 50%

1. 4. 2010

Cost of property must be entered in column 5 if a loss is claimed in column 2.

NOTE: Schedule C-1 (IN DUPLICATE) also must be filed with this return if compensation in excess of \$15,000 was paid to any officer or employee.

1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26

Itemize below all dividends received during the year, stating the amount and the name and address of the corporation which declared the dividend.

SCHEDULE F--BAD DEBTS (See Instruction 18)**SCHEDULE G—INTEREST PAID (See Instruction 19)****SCHEDULE H—TAXES PAID** (See Instruction 20)

1. MATCHES ON TAX		2. TO WHOM PAID		3. AMOUNT (From Schedule D, page 2)	
Franchise Tax	State of California	11.73	73		
Franchise Tax	State of Delaware	350	00		
Capital stock tax	Federal	2,530	00		
Personal Property Tax	City and County of Los Angeles	58	69		
Real Property Tax	Various Treasurers	154	48		
Unemployment Insurance Tax	State of California	12	12		
		24,005	80		

1. NAME AND ADDRESS OF DONOR

2. AMOUNT

Total (Enter on Item 21, page 2, subject to 5% limitation (see Instruction 21))

\$

SCHEDULE J—EXPLANATION OF DEDUCTION FOR LOSSES BY FIRE, STORM, ETC. (See Instruction 22)

1. KIND OF PROPERTY	2. DATE ACQUIRED	3. COST	4. DEPRECIATION ALLOWED (SEE INSTRUCTIONS) FOR PREVIOUS YEARS	5. DEPRECIATION ALLOWED (SEE INSTRUCTIONS) FOR PREVIOUS YEARS	6. INSURANCE AND SALVAGE VALUE	7. DEDUCTIBLE LOSS (Enter on Item 21, page 2)
Buildings (Branley)	4-22-24	\$ 13,053.46		\$ 5,723.53	\$ 3,225.20	\$ 4,054.73
Building (Santa Monica)	7-3-28	3,000.00		972.00	100.00	2,528.00
						6,582.73

State how property was acquired.

Purchased

SCHEDULE K—EXPLANATION OF DEDUCTION FOR DEPRECIATION (See Instruction 23)

1. KIND OF PROPERTY (If building, state material of which constructed)	2. DATE ACQUIRED	3. COST OR MAR. V. VALUE (Indicate basis)	4. AMT. FULLY DEPRECIATED (SEE INSTRUCTIONS) AT END OF YEAR	5. DEPRECIATION ALLOWED (SEE INSTRUCTIONS) IN PREVIOUS YEARS	6. DEPRECIATION COST (SEE INSTRUCTIONS) TO BE RECORDED	7. LOSS (SEE INSTRUCTIONS) IN CURRENT YEAR FROM DEPRECIATION	8. DEPRECIATION ALLOWABLE THIS YEAR (Enter on Item 21, page 2)
Schedule No. 3 attached							

NATURE OF BUSINESS

1. Check the block in which the industrial division in which the corporation's main income-producing business is conducted.

MANUFACTURING

- ☐ Food and kindred products
- ☐ Bakery and confectionary products.
- ☐ Canned products—fish, fruit, vegetables, etc.
- ☐ Mill products—flour, feed, etc.
- ☐ Packing-house products—meats, lard, slaughter.
- ☐ Beer—brew, malt, sugar; ice cream, etc.
- ☐ Other food products—butter substitutes, etc., coffee, spices, dairy products, etc., etc.
- ☐ Beverages, soft drinks, mineral water.
- ☐ Brewing and distilling—alcohol, liquors, beer, malt, etc., etc.
- ☐ Tobacco products.
- ☐ Textiles
- ☐ Cotton goods—cotton goods, etc.; supplying, dyed.
- ☐ Woollen and worsted goods—dress goods, etc.; wool putting, spinning.
- ☐ Silk and rayon goods—dress goods, throws, etc., etc.; spinning, rearing.
- ☐ Carpets, floor coverings, tapestries, hangings.
- ☐ Other textile—silk, etc., etc.; rayon, artificial leather, carpeting, etc., etc.
- ☐ Rubber—conformable, battery-made, underwear, military, etc.
- ☐ Hosiery—socks, underwear, etc.
- ☐ Leather goods—bags, shoes, etc.
- ☐ Leather boots, shoes, dresses, etc.
- ☐ Other leather products—saddlery, harness, etc.; shoes, bags, etc.
- ☐ Rubber boots and shoes.
- ☐ Other rubber goods—bags, shoes, etc., etc.; artificial leather, etc.
- ☐ Bone, celluloid, and ivory products.
- ☐ Sewing and plating metal products.
- ☐ Furniture (not metal).
- ☐ Other wood products—carpeting, etc.
- ☐ Paper, pulp and products.
- ☐ Printing, publishing, and allied industries.
- ☐ Petroleum and other mineral oil refining and products.
- ☐ Chemicals, explosives, etc., etc.; and for products, etc.
- ☐ Alkaline chemical substances, drugs, etc., etc.
- ☐ Paints, pigments, varnishes, etc.
- ☐ Pottery.
- ☐ Glass, clay, stone, and related products.

MANUFACTURING—(Continued)

- ☐ Metal products and processes—Castings.
- ☐ Machinery—factory, used in producing food, leather, metal, paper, printing, rubber, etc., etc.; plant, tools and wood products.
- ☐ Machinery—structural and equipment.
- ☐ Machinery—electrical and equipment.
- ☐ Machinery—other, building, construction, etc., and mining machinery and equipment.
- ☐ Steamship equipment—metal furniture, refrigeration, etc.; and equipment, etc.
- ☐ Metal building material and equipment.
- ☐ Hardware, tools, etc.
- ☐ Precision metal, products and processes.
- ☐ Other metal, products and processes.
- ☐ Miscellaneous manufacturing:
- ☐ Medical, supplies of parts.
- ☐ Medical, professional, and scientific instruments—optical goods, small tools.
- ☐ Alloys, alloys, supplies, parts.

NONMANUFACTURING

- ☐ Trade
- ☐ Wholesale
- ☐ Retail
- ☐ Wholesale and retail.
- ☐ Commission.
- ☐ Other trade—repair service, garage, etc.
- ☐ Finance
- ☐ Banks—national, State, private, savings; joint-stock bank branches.
- ☐ Trust and bond brokers, investment banks and brokers.
- ☐ Real estate, realty holding, and estate agents.
- ☐ Insurance companies—life, general.
- ☐ Investment trusts, stock syndicates, stock holding companies.
- ☐ Other finance—loan companies, building and loan associations, etc.; mortgage, or pure brokers, insurance agents.
- ☐ Agriculture and related industries, including fishing, forestry, ice-harvesting, hunting, etc.
- ☐ Mining and quarrying, including gas and oil wells, heating and power.
- ☐ Construction—contracting, bridges, building, railways, ships, equipment and installing systems.
- ☐ Transportation—rail, water, aerial, motor, etc.; leasing such facilities.
- ☐ Storage and storage, grain elevators, warehouses, etc.; and related.
- ☐ Printing and publishing, etc.; or paper, etc.; artificial or material, paper, book, etc.; telegraph, etc.; radio, etc.; and related.
- ☐ Telephones, etc.; and related.
- ☐ Service—professional, business, amusement, etc.; and other.

AFFILIATIONS WITH OTHER CORPORATIONS (See Instructions 24)

1. Is this a consolidated return? No. If so, please have the schedule of income revenue for your district from RM, All-American Schedule, which shall be filed in, even in, and find on a part of the return.
2. Was the income of this corporation included in a consolidated return for any prior year? Yes. If so, give name and address of corporation which filed the consolidated return and the last year for which such a return was filed. Period from 1-1 to 12-31-33 with Security-First Company, Los Angeles; Period from 1-17 to 12-31-33 with Security-First National Bank of Los Angeles
3. Did the corporation file a return under the same name for the preceding taxable year? Yes. Was the corporation in any way an owner, partner, stockholder, or contributor of a business or business in existence during this or any prior year than December 31, 1933? No. If answer is "yes", give name and address of such predecessor business, and the date of the change in entity.

Upon such change was any asset value increased or decreased?

If the answer is "yes", state business change of old business and specify business change of new business which is furnished.

BASES OF RETURN

2. Is this return made on the basis of such receipts and disbursements? Yes. If not, describe fully when other basis or method was used in computing net income.

VALUATION OF INVENTORY

4. State whether the inventories at the beginning and end of the taxable year was valued at cost, or cost or market, whichever is lower. If other basis was used, describe fully, state why used and the date inventory was last reconciled with stock.

PREPARATION OF RETURN (See "Signatures and Verification", page 6)

1. Did any person or persons advise the corporation in respect of any question or matter affecting any item or schedule of this return, or assist or advise the corporation in the preparation of this return, or actually prepare this return for the corporation? Yes. If so, give the name and address of such person or persons and state the nature and extent of the assistance or advice rendered and the time and substance in respect of which the assistance or advice was rendered. If this return was actually prepared by any person or persons other than the corporation, state the nature of the information reported in this return and the manner in which it was furnished to or obtained by such person or persons.
- Office of Claude L. Parker, 202 Bank of America Building, Consultation and Advice, Prepared by Audit Department, Security-First National Bank of Los Angeles, from records of the corporation

LIST OF ATTACHED SCHEDULES

4. Enter under a list of all schedules accompanying this return, giving for each a brief title and the schedule number. The name and address of the corporation should be placed on each separate schedule accompanying the return.
- Sch. No. 1 - Other Income
- Sch. No. 2 - Other Deductions
- Sch. No. 3 - Depreciation
- Sch. No. 4 - Balance sheets
- Sch. No. 5 - Other credits to surplus
- Sch. No. 6 - 50% or more owned Corporation

1. Name of the corporation: **THE VIRGIN ISLANDS TRADING COMPANY, INC.**

2. Principal office: **1000 ...**

3. Date of filing: **March 1937**

4. Taxable year: **1936**

5. Total of Lines 1 to 4, inclusive: **562 740 52**

6. Total from Line 5: **562 740 52**

7. Total profit or loss for the year: **501 076 20**

8. Dividend and undivided profits: **733 191 67**

9. Other income: **682 952 16**

10. Total of Lines 6 to 9, inclusive: **1 917 220 03**

11. Total from Line 10: **1 917 220 03**

12. Dividend and undivided profits: **702 325 63**

13. Total of Lines 11 to 13, inclusive: **1 214 894 40**

14. Total of Lines 14 to 16, inclusive: **3 056 84**

15. Total of Lines 17 to 19, inclusive: **61 644 32**

16. Total of Lines 20 to 22, inclusive: **256 980 63**

17. Total of Lines 23 to 25, inclusive: **15 797 58**

18. Total of Lines 26 to 28, inclusive: **13 750 00**

19. Total of Lines 29 to 31, inclusive: **400 000 00**

20. Total of Lines 32 to 34, inclusive: **702 325 63**

LIABILITY FOR FILING RETURNS

Corporations generally.—Every domestic or resident corporation, joint-stock company, association, or insurance company (other than a life insurance company) not specifically exempted by Section 101 of the Revenue Act of 1936, whether or not having any net income, must make a return of income for the taxable year ending at the close of the first year in respect of which it is subject to the capital-stock tax. A combined return for income and excess-profits tax purposes must be made on this form, except where a consolidated income tax return is made by an affiliated group of railroad corporations. (See Instruction 30.)

Domestic corporations within the possessions of the United States (except the Virgin Islands) may report as gross income only gross income from sources within the United States provided (a) 80 percent or more of the gross income for the three-year period immediately preceding the close of the taxable year (or such part thereof as may be applicable) was derived from sources within a possession of the United States; and (b) 80 percent or more of the gross income for such part thereof was derived from the active conduct of a trade or business within a possession of the United States.

Foreign corporations.—Resident foreign corporations (foreign corporations which at any time within the taxable year are engaged in trade or business within the United States or have an office or place of business therein) shall make returns on this form of income received from sources within the United States. Nonresident foreign corporations (foreign corporations not engaged in trade or business within the United States and not having an office or place of business therein at any time within the taxable year) shall not make returns on this form. Nonresident foreign corporations are subject to tax upon gross income from sources within the United States (determined under the provisions of Section 119 of the Revenue Act of 1936) which is fixed or determinable annual or periodical gain, profit, and income, and are required to make returns on Form 1120-B with respect to such income. (See Sections 231 to 238, Revenue Act of 1936.)

Life insurance companies.—As defined by Section 201 of the Revenue Act of 1936, shall file returns on Form 1120-L, instead of this form.

Mutual insurance companies (other than life insurance companies) shall make and file returns in accordance with the provisions of Section 207 of the Revenue Act of 1936 and Articles 207-1 to 207-7 of Regulations 94.

Nonresident life insurance associations of a purely local character, mutual stock companies, and other insurance companies, or cooperative telephone companies, or life organizations are exempt from taxation only if 85 percent or more of the income consists of amounts collected from members for the sole purpose of meeting losses and expenses.

Other insurance companies.—The normal-tax net income of an insurance company (other than a life or mutual insurance company referred to above) shall be computed as provided in Section 204 of the Revenue Act of 1936.

TIME AND PLACE FOR FILING

The return must be filed on or before the fifteenth day of the third month following the close of the taxable year with the collector for the district in which the corporation's principal place of business or principal office or agency is located.

AFFIDAVIT (See "Signatures and Verification," above)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that this return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and of excess-profits tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this 12th day of March, 1937.

Signature of officer administering oath: **JOHN A. ...**

Signature of president: **JOHN A. ...**

Signature of treasurer: **JOHN A. ...**

Signature of assistant treasurer: **JOHN A. ...**

Signature of chief accounting officer: **JOHN A. ...**

located. In the case of a foreign corporation having an office or place of business in the United States the return shall be filed on or before the fifteenth day of the sixth month following the close of the taxable year. Where a consolidated income tax return is filed by an affiliated group of railroad corporations, the separate excess-profits tax returns of the common parent corporation and each subsidiary corporation must be filed with the collector with whom the consolidated income tax return is filed.

The collector of internal revenue may grant a reasonable extension of time for filing not to exceed six months. If application therefor is made before the date prescribed by law for filing such return, whenever in his judgment good cause exists.

SIGNATURES AND VERIFICATION

The return shall be sworn to by the president, vice president, or other principal officer, and by the treasurer, assistant treasurer, or chief accounting officer. Receivers, trustees in bankruptcy, and assignees, operating the property or business of corporations, must make returns of income for such corporations. If a receiver has full custody of and control over the business or property of a corporation, he shall be deemed to be operating such business or property, whether he is engaged in carrying on the business for which the corporation was organized or only in marshaling, selling, and disposing of its assets for purposes of liquidation.

Question 7 on page 4 of the return should be answered fully, and where the return is actually prepared by some person or persons other than the corporation, such person or persons must execute the affidavit at the foot of this page.

PAYMENT OF TAX

Checks or money orders to payment of tax should be drawn to the order of "Collector of Internal Revenue at (insert name of city and State)." Do not send cash by mail, nor pay it in person except at the collector's office.

The tax may be paid when the return is filed, or in four equal installments as follows: The first installment shall be paid on or before the fifteenth day of the third month following the close of the taxable year, the second installment shall be paid on or before the fifteenth day of the third month, the third installment on or before the fifteenth day of the sixth month, and the fourth installment on or before the fifteenth day of the ninth month, after the data prescribed for paying the first installment.

If any installment is not paid on the date fixed for its payment, the whole amount of the tax unpaid shall be paid upon notice and demand by the collector.

PENALTIES

For failure to make and file the return on time.—Not more than \$10,000 or imprisonment for not more than one year, or both, together with the costs of prosecution, and in addition 5 percent to 25 percent of the amount of the tax. For willfully attempting to evade or defeat payment of the tax.—Not more than \$10,000 or imprisonment for not more than five years, or both, together with the costs of prosecution.

For deficiency due to negligence or fraud.—Five percent of the amount of the deficiency if due to negligence or intentional disregard of rules and regulations without intent to defraud, or 50 percent of the amount of the deficiency if due to fraud.

Pacific Southwest Realty Company, Los Angeles
Year 1936

SCHEDULE NO. 1—OTHER INCOME

Item 13

	Amount
Service fees	\$41,691.30
Agency fees	3,000.00
Commissions received on telephone.....	128.94
Commissions received on towels.....	102.26
Sale of baled waste paper.....	164.69
Miscellaneous	78.53
	<hr/>
	\$45,165.72

SCHEDULE NO 2—OTHER DEDUCTIONS
AUTHORIZED BY LAW

	Amount
Refinancing expense	\$ 1,914.69
Lighting assessment	665.59
Insurance	6,394.27
Building equipment and supplies.....	576.13
Window washing, services, etc.....	6,961.53
Building repairs	25,769.53
Machinery maintenance and repairs.....	6,144.65
Water, fuel, power, and light.....	24,239.84
Engineers' and janitors' supplies.....	2,366.51
Directors' fees	175.00
Commission	3,560.48
Postage, stationery and supplies.....	723.41
Telephone and telegraph.....	584.09
Subscription and dues.....	623.56
Legal	3,612.36
Auto and travel.....	655.04
Miscellaneous	423.29
	<hr/>
	\$85,389.97

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SCHEDULE NO. 3

Pacific Southwest Realty Company, Los Angeles

Year 1936

SCHEDULE K—EXPLANATION OF DEDUCTION FOR DEPRECIATION

Kind of Property	2. Date Acquired	3. Cost	5. Depreciation allowed (or allowable) In prior years	6. Remaining Cost to be Recovered	7. Life used in accumulating Depreciation (Years)	8. Est. remaining life from beginning of year (Years)	9. Depreciation allowable this year
Buildings							
1. Alhambra—Brick.....	7- 1-23	\$ 32,727.28	\$ 10,912.65	\$ 21,814.63	12 1/2	28 1/2	\$ 765.42
2. Carpinteria—Brick.....	7- 1-23	15,446.92	4,810.12	10,636.80	12 1/2	35 1/2	299.62
3. El Centro—Brick.....	7- 1-23	20,209.45	6,797.45	13,412.00	12 1/2	27 1/2	487.71
4. Glendale—Brick.....	7- 1-23	11,251.10	3,814.06	7,437.04	12 1/2	27 1/2	270.43
5. Hanford—Brick.....	7- 1-23	45,650.00	23,709.17	21,940.83	12 1/2	14 1/2	1,513.16
8. Guadalupe—Brick.....	7- 1-23	9,602.31	2,920.18	6,682.13	12 1/2	35 1/2	188.22
10. Lemoore—Brick.....	7- 1-23	21,000.00	7,119.00	13,881.00	12 1/2	27 1/2	504.76
11. Lompoc—Brick.....	7- 1-23	29,151.56	9,825.38	19,326.18	12 1/2	27 1/2	702.77
12. Los Alamos—Brick.....	7- 1-23	6,020.83	2,041.03	3,979.80	12 1/2	27 1/2	144.72
13. Main & Commercial—Brick.....	7- 1-23	12,027.25	5,979.92	6,047.33	12 1/2	17 1/2	345.56
14. Sixth & Spring—Steel & Concrete.....	7- 1-23	678,516.36	216,630.42	461,885.94	12 1/2	26 1/2	17,396.85
15. Ocean Park—Brick.....	7- 1-23	40,510.76	13,733.14	26,777.62	12 1/2	27 1/2	973.73
16. Orcutt—Concrete.....	7- 1-23	8,273.75	3,686.72	4,587.03	12 1/2	27 1/2	166.80
17. Oxnard—Brick.....	7- 1-23	78,361.02	19,590.25	58,770.77	12 1/2	37 1/2	1,567.22
18. San Luis Obispo—Brick.....	7- 1-23	22,655.24	8,258.63	14,396.61	12 1/2	20 1/2	702.27
19. San Luis Obispo—Brick.....	7-10-24	2,090.92	1,002.66	1,088.26	11 1/2	18 1/2	58.82
20. Marine—Brick.....	7- 1-23	48,183.00	16,177.12	32,005.88	12 1/2	27 1/2	1,163.85
21. Santa Maria—Brick.....	7- 1-23	100,000.00	25,000.00	75,000.00	12 1/2	37 1/2	2,000.00
21. Santa Maria—Brick.....	7- 1-23	5,582.72	1,941.55	3,641.17	12 1/2	20 1/2	177.62
22. Tulare—Brick.....	7- 1-23	40,000.00	15,000.00	25,000.00	12 1/2	20 1/2	1,219.51
23. Venice—Brick.....	7- 1-23	25,571.50	8,522.63	17,048.87	12 1/2	27 1/2	619.96
24. Visalia—Brick.....	7- 1-23	59,349.50	26,500.70	32,848.80	12 1/2	17 1/2	1,877.07
25. Whittier—Brick.....	7- 1-23	26,460.55	8,303.22	18,157.33	12 1/2	34 1/2	526.30
26. Redlands—Brick.....	7- 1-23	4,281.90	2,128.99	2,152.91	12 1/2	17 1/2	123.02
27. Redlands—Steel & Concrete.....	7- 1-23	97,318.70	24,013.83	73,304.87	12 1/2	37 1/2	1,954.80
33. Lindsay—Brick.....	4-28-24	34,765.92	15,828.17	18,937.75	11 2/3	18 1/3	1,032.97
35. Strathmore—Hollow Tile (Sold-5-26-36).....	4-28-24	7,126.30	2,247.36	4,878.94	11 2/3	28 1/3	72.10 (5 mo.
36. Exeter—Brick.....	4-28-24	6,000.00	1,906.20	4,093.80	11 2/3	28 1/3	144.49
38. Saticoy—Concrete.....	4-28-24	6,000.00	1,906.20	4,093.80	11 2/3	28 1/3	144.49
39. Fillmore—Concrete.....	4-28-24	20,900.99	4,781.39	16,119.60	11 2/3	28 1/3	568.93
40. Brawley—Brick.....	4-28-24	14,683.37	6,454.30	8,229.07	11 2/3	18 1/3	448.86
40. Brawley—Brick.....	4-28-24	10,110.67	4,442.89	5,667.78	11 2/3	18 1/3	309.15
40. Brawley Add.—Concrete.....	5- 1-36	5,200.69	0.00	5,200.69		50	69.32 (8 mo.
41. Calipatria—Brick.....	4-28-24	22,994.00	9,316.60	13,677.40	11 2/3	28 1/3	482.73

Kind of Property	2. Date Acquired	3. Cost	5. Deprecia- tion allowed (or allowable) In prior years	6. Remaining Cost to be Recovered	7. Life used in accumu- lating Depreci- ation (Years)	8. Est. remain- ing life from be- ginning of year (Years)	9. Depre- ciation allowable this year
42. Westmoreland—Concrete.....	4-28-54	\$ 18,000.00	\$ 5,265.00	\$ 12,735.00	11 2/3	35 1/3	\$ 360.42
43. Avalon & Vernon—Brick.....	6-24-25	32,000.00	7,968.00	24,032.00	10 1/2	39 1/2	608.40
44. Santa Paula—Concrete & Brick.....	6-24-25	60,000.00	16,272.00	43,728.00	10 1/2	36 1/2	1,198.03
45. Fullerton—Brick.....	6-24-25	69,077.60	20,230.83	48,846.77	10 1/2	29 1/2	1,655.82
45. Fullerton—Concrete & Hollow Tile.....	9-15-30	9,611.66	1,329.81	8,281.85	5 1/2	34 1/2	238.33
47. Jefferson & University—Brick.....	1925	54,750.00	14,804.55	39,945.45	11	39	1,011.28
48. Desmond's—Brick & Concrete.....	1925	430,014.18	114,805.84	315,208.34	11	39	7,979.96
49. Porterville—Brick.....	9-28-27	45,408.85	10,113.94	35,294.91	8 1/4	31 3/4	1,111.65
A. Seventh & Wimer—Brick.....	6-24-25	25,000.00	9,460.00	15,540.00	11	29	526.78
B. Pasadena—Concrete.....	1- 1-25	1,300,000.00	286,000.00	1,014,000.00	11	39	26,000.00
C. Pasadena—Concrete.....	7- 1-27	70,652.75	15,732.34	54,920.41	8 1/2	31 1/2	1,743.50
C. Pasadena—Concrete.....	7- 1-28	270,488.56	43,204.63	227,283.93	8	42	5,411.52
D. Highland & Hollywood—Steel & Concrete.....	7- 1-28	514,024.31	77,097.14	436,927.17	7 1/2	42 1/2	10,280.64
F. Fresno—Concrete & Brick.....	1- 1-25	1,112,858.50	244,828.82	868,029.68	11	39	22,257.17
Fresno—Air Conditioning System.....	9- 1-36	70,137.27	0.00	70,137.27		15	1,558.61 (4 mo.)
G. Sixth & Alvarado—Brick.....	7- 3-28	33,458.32	7,206.93	26,251.39	7 1/2	32 1/2	807.73
H. Carthay Center—Brick.....	7- 3-28	26,081.45	4,256.46	21,824.99	7 1/2	42 1/2	513.53
I. Jefferson & Arlington—Concrete.....	7- 3-28	19,840.42	3,237.97	16,602.45	7 1/2	42 1/2	390.64
J. La Brea—Brick.....	7- 3-28	66,355.21	10,614.55	55,740.66	7 1/2	43	1,311.54
K. Belvedere Gardens—Brick.....	7- 3-28	10,125.00	1,652.38	8,472.62	7 1/2	42 1/2	199.35
L. Moneta—Brick.....	7- 3-28	12,225.35	2,369.28	9,856.07	7 1/2	32 1/2	303.26
M. Culver City—Brick.....	7- 3-28	15,576.00	3,386.66	12,189.34	7 1/2	32 1/2	375.06
P. San Fernando—Brick.....	7- 3-28	86,110.80	16,492.68	69,618.12	7 1/2	32 1/2	2,142.10
Q. Altadena—Brick.....	7- 3-28	40,882.45	7,853.12	33,029.33	7 1/2	32 1/2	1,016.28
R. Santa Barbara—Brick.....	7- 3-28	94,133.76	18,243.13	75,890.63	7 1/2	32 1/2	2,335.10
S. Dinuba—Brick.....	7- 3-28	18,542.60	3,593.58	14,949.02	7 1/2	32 1/2	459.97
Eighth & Olive—Brick.....	12- 1-35	29,704.50	0.00	29,704.50		35	848.70
Total of Buildings.....		\$6,103,084.10	\$1,461,321.57	\$4,641,762.53			\$131,668.60
Automobile.....	1934	850.00	425.00	425.00	2	2	212.50
Total.....		\$6,103,934.10	\$1,461,746.57	\$4,642,187.53			\$131,881.10

ANALYSIS OF DIVIDENDS PAID AND RECEIPTS AND EXPENDITURES ON ACCOUNT OF
CHANGES IN CORPORATION'S OBLIGATIONS AND CAPITAL STOCK
FOR CALENDAR YEAR 1936

Or fiscal year began, 1936, and ended, 1937

This schedule, together with green copy marked "Duplicate", must be filed with and as part of the corporation income and excess-profits tax return for the taxable year.

Print plainly corporation's name and business address (Date received)
Pacific Southwest Realty Company

(Name)

215 West Sixth Street

(Street and number)

Los Angeles

Los Angeles

California

List below all dividends paid during the taxable year, stating in each case the character of the dividend and entering the amounts in the proper columns respecting the taxable status of the dividends. If the total amount shown below differs from that reported in Schedule M, item 17, explain the difference at the end of this schedule. Dividends paid in treasury stock should be entered in item 2 and not in items 5 through 8. It is essential that dividends in which the medium of payment is elected by the shareholders be carefully reported in item 9, and correspondingly excluded from items 1 through 8.

Item No.	Character of Dividend	Taxable Dividends (1)	Nontaxable Dividends (2)	Total (3)
1. Cash		\$702,325.63	\$	\$702,325.63
2. Treasury stock				
3. Assets other than money or the corporation's own securities				
	(Explain character of each payment; use separate schedule if necessary.)			
4. Obligations of the corporation (bonds, notes, scrip, etc.)				
5. Common stock of the corporation to holders of preferred* stock				
6. Preferred* stock of the corporation to holders of preferred* stock				
7. Preferred* stock of the corporation to holders of common stock				
8. Common stock of the corporation to holders of common stock				
9. Optional—Medium of payment elected by the shareholders. (List below separately the amounts disbursed in each medium of payment):				
	Cash			
	Common stock			
	Other (specify character)			
10. Total (items 1 to 9)		\$702,325.63	\$	\$702,325.63
11. Dividends paid credit (item 29, page 1 of return)		479,489.44		479,489.44
12. Dividends carry-over (item 10 minus item 11)		222,836.19		222,836.19

*Preferred stock for this purpose should be considered as stock which is preferred as to either dividends or assets irrespective of formal designation.

SCHEDULE NO. 4

Pacific Southwest Realty Company, Los Angeles
Year 1936

SCHEDULE L—BALANCE SHEETS

	Beginning of Taxable Period	End of Taxable Period
Assets		
1. Cash	\$ 31,581.51	\$ 45,996.97
2. Notes receivable		1,255.00
3. Accounts receivable	1,453.11	1,216.80
7. Deferred charges:		
Refinancing expense	13,573.98	11,659.29
8. Capital assets:		
Buildings and equipment	6,049,432.45	6,095,957.80
Less reserves for		
depreciation	1,602,320.63	1,590,670.71
	<hr/>	<hr/>
	4,447,111.82	4,505,287.09
Land	5,285,756.06	5,245,399.47
11. Other assets:		
Real estate sales contract	581,854.19	
Construction		28,852.06
	<hr/>	<hr/>
12. Total Assets	<u>\$10,361,330.67</u>	<u>\$9,839,666.68</u>

	Beginning of Taxable Period	End of Taxable Period
Liabilities		
15. Notes payable (not secured by mortgage)	\$	\$3,560,000.00
16. Mortgages (including notes so secured)	4,210,000.00	4,058,000.00
18. Other liabilities:		
Rental security	739.00	1,401.50
Liability under real estate sales contract	650,000.00	
Amount payable for called and matured stock.....	900.00	5,205.00
Employees Unemployment insurance contributions		165.78
19. Capital stock:		
Preferred (less stock in treasury)	4,766,500.00	1,000,000.00
Common (less stock in treasury).....	No par—No stated value	No par—No stated value
20. Surplus and reserves.....	733,191.67	1,214,894.40
22. Total Liabilities.....	<u>\$10,361,330.67</u>	<u>\$9,839,666.68</u>

SCHEDULE NO. 5

Pacific Southwest Realty Company, Los Angeles
Year 1936

SCHEDULE M—RECONCILIATION OF NET INCOME
& ANALYSIS OF CHARGES IN SURPLUS

Line 11—Other credits to surplus:

(a) Excess depreciation taken in prior years.....	\$116,987.53	
(b) Improvements charged to expense during 1933, 1934 and 1935, which were disal- lowed or not claimed as deductions. Now capitalized per books.....		9,345.91
(c) Additional cost of Hollywood & Highland property caused by depreciation adjust- ment for the year 1930 by Revenue Agent		2,846.48
(d) Eighth and Olive Property Adjustments:		
Profit reported in 1929 from sale of property (RAR).....	\$33,548.25	
Selling expense in 1929 (RAR)	15,155.80	
Assessments charged to ex- pense in 1928, but disallowed by Revenue Agent.....	7,370.78	
Excess depreciation taken per books from 1929 to 1935, in- clusive	8,775.00	
Profit reported in 1935 from reacquirement of property.....	19,100.45	
	<hr/>	83,950.28
Less net award received in 1928 (see 1929 RAR).....	55,178.04	28,772.24
(e) Contributed surplus		525,000.00
	<hr/>	
Total.....		\$682,952.16
		[109]

SCHEDULE NO. 6

Pacific Southwest Realty Company, Los Angeles

Year 1936

SCHEDULE OF 50% OR MORE OWNED CORPORATION

	Percentage of stock owned	Acquired	Return filed
Pacific Southwest Realty Company (of California), Los Angeles, California	100.	1923	California Sixth

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RESOLUTION

Whereas, this corporation has now outstanding 37,665 unmatured shares of its 6½% Cumulative Preferred Serial Stock of the par value of \$100.00 per share and of the aggregate par value of \$3,766,-500 represented by stock of the following series:

Series	Number of Shares	Redeemable On
H.....	1,260	July 1, 1936
I.....	1,260	July 1, 1937
J.....	1,530	July 1, 1938
K.....	1,530	July 1, 1939
L.....	1,530	July 1, 1940
M.....	1,800	July 1, 1941
N.....	2,070	July 1, 1942
O.....	2,070	July 1, 1943
P.....	2,340	July 1, 1944
Q.....	2,610	July 1, 1945
R.....	2,745	July 1, 1946
S.....	3,015	July 1, 1947
T.....	3,285	July 1, 1948
U.....	3,555	July 1, 1949
V.....	4,005	July 1, 1950
W.....	3,060	July 1, 1951

and

Whereas, Article Fourth of the Certificate of Incorporation of this corporation as amended provides that the whole or any part of the preferred stock of this corporation may be redeemed on any dividend date upon the payment of the par value thereof plus the "Fixed redemption premium" per share, plus all unpaid, accrued or accumulated dividends thereon, and that such redemption shall be by such method as shall be provided from time to time by

resolution of the board of directors of this corporation; and

Whereas, said 6½% Cumulative Preferred Serial Stock is of the par value of \$100.00 per share and the accumulated dividends to and including October 1, 1935, on said stock have been paid, and the "fixed redemption premium" payable on the redemption of said stock is 5% of the par value of said stock, and the redemption price of said stock is \$105.00 per share; and

Whereas, it is the sense of this board of directors that it is for the best interests of this corporation that all stock comprising Series I to W, both inclusive, of said 6½% Cumulative Preferred Serial Stock above referred to, be redeemed; and

Whereas, it appears that the assets of the corporation remaining after such redemption will be sufficient to pay any debts of the corporation, the payment of which has not been otherwise provided for; [113]

Now, Therefore, Be It Resolved, That all of the 6½% Cumulative Preferred Serial Stock issued by this corporation under Series I to W, both inclusive, be redeemed and said stock is hereby called for redemption on January 1, 1936, at the fixed redemption price thereof, namely, \$105.00 per share plus the amount of the accrued dividends thereon at the rate of 6½% per annum from October 1, 1935, to said redemption date, upon presentation and surrender of the certificates for said stock at the office of the corporation at Room 1000 Pacific Southwest

Building, 215 West Sixth Street, Los Angeles, California;

Further Resolved, That the President or any Vice President, and the Secretary or any Assistant Secretary of this corporation shall give at least thirty days' notice of such redemption by mail at their respective addresses as shown on the books of the corporation to the stockholders of record on the books of the corporation whose stock is to be redeemed, and shall also give notice by publication in the Los Angeles Daily Journal, it being a newspaper of general circulation published in the City of Los Angeles, State of California, and in The Recorder, it being a newspaper of general circulation published in the City of San Francisco, State of California, once a week for at least thirty days prior to January 1, 1936, the date hereby fixed for such redemption, and that said notice shall be in substantially the following form:

Pacific Southwest Realty Company

Los Angeles

Notice of Redemption

To the Holders of Series I to W, Both Inclusive, of the 6½% Cumulative Preferred Serial Stock of Pacific Southwest Realty Company

Notice Is Hereby Given that pursuant to the provisions of its Certificate of Incorporation as amended and to a resolution of its board of directors adopted at a meeting thereof duly held

on November 20, 1935, Pacific Southwest Realty Company, a Delaware corporation, has called for redemption on January 1, 1936, at the office of said corporation at Room 1000, Pacific Southwest Building, 215 West Sixth Street, Los Angeles, California, its outstanding 6½% Cumulative Preferred Serial Stock of Series I to W, both inclusive, at the redemption price of \$105 per share plus the amount of the dividend accrued thereon from October 1, 1935, to said date fixed for redemption.

Certificates for said preferred stock should be presented at or forwarded to Pacific Southwest Realty Company, Room 1000 Pacific Southwest Building, 215 West Sixth Street, Los Angeles, California, at any time on or after January 1, 1936

From and after January 1, 1936, the date fixed as the date of redemption, all dividends on such stock so called for redemption shall cease to accrue and from and after said date all the rights of the holders thereof as stockholders of this corporation, except the right to receive such redemption price, shall cease and determine. [114]

Dated _____, 1935.

PACIFIC SOUTHWEST
REALTY COMPANY,

By _____

Its Vice-President

By _____

Its Assistant Secretary

Further Resolved, That of said redemption price of said preferred stock, the amount of \$100.00 per share shall be paid out of capital of this corporation and the balance of said redemption price shall be paid out of surplus of this corporation.

Further Resolved, That all numbers of the certificates of said preferred stock of this corporation so redeemed shall be appropriately cancelled on the books of this corporation by the Registrar and said stock evidenced thereby shall not be reissued.

Further Resolved, That the President or any Vice President and the Secretary or any Assistant Secretary be, and they are hereby authorized, directed and empowered to do and perform any and all acts and things, to give any and all notices, to make any and all payments and to execute any and all instruments, documents or certificates which in their sole judgment or discretion they may deem necessary or advisable to effect the redemption of said stock.

Further Resolved, That the President or any Vice President and the Secretary or any Assistant Secretary upon such redemption being made, are hereby authorized, directed and empowered to execute and file a certificate of such redemption pursuant to the provisions of Section 27 of the Delaware Corporation Laws, and otherwise to take any and all steps necessary or convenient to effect said redemption.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regu-

lar meeting duly and regularly called and held November 20, 1935, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [115]

RESOLUTION

Resolved: That this corporation pay the regular quarterly dividend on its 6½% Cumulative Preferred Serial Stock, on January 1, 1936 to stockholders of record December 21, 1935, amounting to \$61,205.63, and that the Stock Transfer Books of this corporation be closed from said December 21, 1935 to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held November 20, 1935, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [116]

RESOLUTION

Resolved: That this corporation pay the regular quarterly dividend on its 5½% Cumulative Preferred Serial Stock on January 1, 1936, to stockholders of record December 21, 1935, in the amount of 13,750.00 and that the Stock Transfer Books of this corporation be closed from said December 21, 1935 to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held November 20, 1935, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [117]

RESOLUTION

Resolved: That this corporation pay the regular quarterly dividend on its 6½% Cumulative Preferred Serial Stock on April 1, 1936, to stockholders of record March 21, 1936, amounting to \$2,047.50 and that the Stock Transfer Books of this Corporation be closed from said March 21, 1936, to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held March 18, 1936, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [118]

RESOLUTION

Resolved: That this Corporation pay the regular quarterly dividend on its 5½% Cumulative Preferred Serial Stock on April 1, 1936, to stockholders of record March 21, 1936, amounting to 13,750.00 and that the Stock Transfer Books of this Corporation be closed from said March 21, 1936 to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held March 18, 1936, at which meeting a quorum was present and voted; and that said Resolution has not

been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [119]

RESOLUTION

Resolved: That this Corporation pay the regular quarterly dividend on its 6½% Cumulative Preferred Serial Stock on July 1, 1936, to Stockholders of record, June 22, 1936 amounting to \$2047.50 and that the Stock Transfer Books of this Corporation be closed from said June 22, 1936 to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held June 17, 1936, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [120]

RESOLUTION

Resolved: That this Corporation pay the regular quarterly dividend on its 5½% Cumulative Preferred Serial Stock on July 1, 1936 to stockholders of record June 22, 1936 amounting to \$13,750.00 and the Stock Transfer Books of this Corporation be closed from said June 22, 1936 to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held June 17, 1936, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [121]

RESOLUTION

Resolved, that this Corporation pay the regular quarterly dividend of its 5½% Cumulative Preferred Serial Stock on October 1st, 1936, to stockholders of record, September 22, 1936, amounting to \$13,750.00 and the Stock Transfer Books of this

Corporation be closed from said September 22, 1936, to said dividend payment date.

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held September 16, 1936, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [122]

RESOLUTION

Whereas, the dividends upon all of the now issued and outstanding preferred stock of Pacific Southwest Realty Company for all past dividend periods have been declared and paid, and a preferred dividend for the current dividend period payable January 1, 1937, has been declared and the amount thereof set aside; and

Whereas, an amount equal to the amount of two full yearly dividends on the now issued and outstanding preferred stock of the corporation has been set aside out of the earned surplus of the corporation and transferred to "Surplus Reserve for Dividend on Preferred Stock"; and

Whereas after payment of said dividends and the setting aside of said amounts, there remains an earned surplus available for dividends on the common stock; and

Whereas, out of the net earnings of the corporation for the year 1936, it is estimated that there will remain, before the payment of any dividend on the common stock of the corporation, a net profit subject to the surtax on undistributed profits amounting to approximately \$365,000.00.

Resolved, that a cash dividend of \$8.00 per share on the outstanding common stock of this corporation, amounting to \$400,000.00, be and the same is hereby declared out of the earned surplus of the corporation, payable December 18, 1936, to the common stockholders of the corporation in proportion to their respective holdings of common stock as they appear of record at the close of business on the 17th day of December, 1936. [123]

I, George C. Cook, Assistant Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a regular meeting duly and regularly called and held December 16, 1936, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

Dated: March 6, 1937.

(Seal)

GEORGE C. COOK,

Assistant Secretary. [124]

POWER OF ATTORNEY

Know All Men by These Presents:

That we, the undersigned, on behalf of the Pacific Southwest Realty Co., a corporation, having its principal place of business in the city of Los Angeles, State of California, have made, constituted and appointed, and do hereby make, constitute and appoint, Claude I. Parker and/or Thos. R. Benner, of Los Angeles, the true and lawful attorney or agent for the corporation and in its name and on its behalf to act in all matters pertaining to any Federal Taxes now assessed, proposed to be assessed, or which may hereafter be assessed against said corporation, or the consideration and determination of which may be pending or may hereafter be pending in the Treasury Department at Washington, D. C., or in any Division, Bureau or Section thereof, whether in or out of the said City of Washington; giving and granting unto said attorney or agent full power and authority to do and perform all and every act or thing whatsoever requisite and necessary to be done in and about the premises as fully, to all intents and purposes, as any of the officers of the corporation might do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that said attorney or agent, or his substitute or substitutes shall lawfully do or cause to be done by virtue of these presents, hereby specifically revoking all prior powers of attorney.

In Witness Whereof, we have hereunto set our hand and seal this 28 day of January, 1931.

PACIFIC SOUTHWEST
REALTY CO.,

By (Signed) W. B. STRINGFELLOW,
Vice-President.

(Corporate Seal)

(Seal)

Attest: (Signed) WM. DOWNEY,
Secretary of the Pacific
Southwest Realty Co.

State of California

County of Los Angeles—ss.

On This 28th day of January, 1931, before me, a Notary Public in and for said State and County, personally appeared W. B. Stringfellow, known to me to be the Vice President, and Wm. Downey, known to me to be the Secretary of the Pacific Southwest Realty Co., the Corporation that executed the within Instrument, known to me to be the persons who executed the within Instrument, on behalf of the Corporation herein named, and acknowledged to me that such Corporation executed the same, for the purposes therein stated.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(Seal) (Signed) DOROTHY C. REYNOLDS,
Notary Public in and for the County of Los Angeles, State of California.

My commission expires June 13, 1933. [125]

SUBSTITUTE POWER OF ATTORNEY

Know All Men by These Presents:

That I, Claude I. Parker, of the City of Los Angeles, State of California, in accordance with the authority conferred upon me, in that certain power of attorney given to me by Pacific Southwest Realty Co. bearing date of January 28, 1931, hereby constitute and appoint Bayley Kohlmeier of the City of Los Angeles, California, to act as my substitute attorney, or agent giving unto said Bayley Kohlmeier full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes as I might or could do if personally present.

/s/ CLAUDE I. PARKER.

State of California

County of Los Angeles—ss.

On this 28th day of February, 1939, before me, a Notary Public in and for said State and County, personally appeared Claude I. Parker, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same.

Witness my hand and official seal.

(Seal) /s/ M. LeSAGE,

Notary Public in and for the County of Los Angeles, State of California. [126]

1936 RETURN

OF
CAPITAL-STOCK TAX
For Year Ending June 30, 1936

1097 DUPLICATE

DOMESTIC CORPORATIONS

(See, 105, Revenue Act of 1936, 49 Stat. 1000, 1001, 1002)

This return must be filed, in triplicate, with the collector of Internal Revenue for your district on or before July 31, 1936, and the tax must be paid on or before that date.

To be stamped by collector, showing district and date received

- Name Pacific Southwest Realty Company
(Print name of corporation, paid-up capital, etc.)
- Address 215 West Sixth Street, Los Angeles, California
(The address must be that of the principal place of business.)
- Name of parent company, if any Security-First National Bank of Los Angeles
District filed 6
- Name of subsidiary, if any Pac. Southwest Realty Co. (Calif.) shares held
(If more than one, state list and state number of shares held by each.) District filed 6
- Nature of business in detail Owns and operates improved real estate
- Incorporated or organized in State of Delaware Month May Day 31 Year 1923
- Was a capital-stock tax return filed for the preceding taxable year ended June 30, 1935? Yes
state the name _____ If filed under a different name (District filed)

8. DECLARED VALUE OF ENTIRE CAPITAL STOCK \$ 9,500,000
(The value declared must be definite and unqualified. A value must be declared in every case regardless of whether exemption from tax is claimed.)

9. EXEMPTIONS.—The Act provides for an exemption from the tax only on the grounds indicated below. Corporations claiming exemption must (1) declare a value for the capital stock under item 8, (2) check the appropriate block under item 9 showing the basis of the claim, and (3) submit with the return a full statement of the evidence specified under the block checked.

- ☐ Corporation exempt from income tax under section 101, Revenue Act of 1931. (1) State under which direction of section 101 _____ (2) Furnish information required by instruction 1
- ☐ Insurance company subject to tax under section 201, 204, or 207, Revenue Act of 1931. State which section _____
- ☐ Corporation not doing business. (1) Furnish information required by instruction 6 (2) Declare value of capital stock in item 8 above.

CORPORATION OF TAX

FOR EACH TAXAYER

EST. OF TAX

10. Declared value (must be identical figure entered in item 8)	\$ 9,500,000.00	\$	9,500,000.00	\$
11. Tax at rate of <u>1.00%</u> or each full \$1,000 in item 8			9,500.00	
12. Penalty for delinquency in filing returns (see inst. 7)				
13. Interest at 6 percent per annum beginning August 1, 1936				
14. Total tax, penalty, and interest		\$	9,500.00	
15. State amounts of outstanding capital stock and surplus as of date of the close of income tax taxable year used in declaring value for capital stock. (If nonstock organization, so indicate and attach statement of net worth)				

	NUMBER OF SHARES	PAR VALUE PER SHARE	TOTAL PAR VALUE
Capital stock: Preferred	47,676	100.00	4,767,400.00
Common	50,000	No stated value	
Capital or paid-in surplus	XXXXXXXXXX	XXXXXXXXXX	
Surplus reserves	XXXXXXXXXX	XXXXXXXXXX	
Surplus and undivided profits	XXXXXXXXXX	XXXXXXXXXX	733,191.67

We, the undersigned H. B. Stringfellow (Name of president, vice president, or other executive officer) Vice President
and Wm. Downey (Name of treasurer, assistant treasurer, or chief accounting officer) Asst. Secretary

return is made, being severally duly sworn, each for himself deposes and swears that this return, including any accompanying documents, has been examined by him and is, to the best of his knowledge and belief, a true and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1936 and the Regulations issued thereunder.

Sworn to and subscribed before me this 30 day of July, 1936

NOTARIAL SEAL

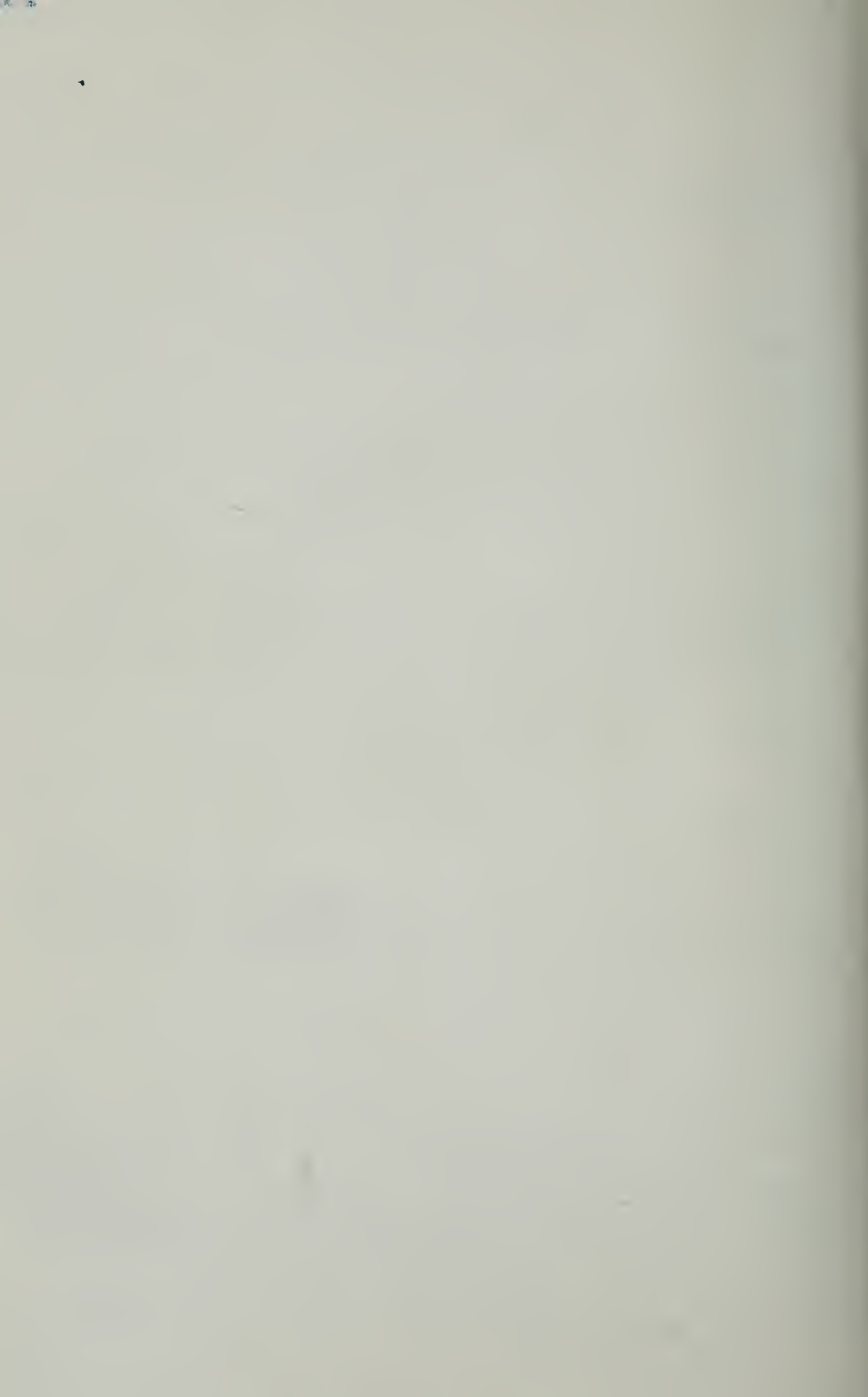
CORPORATE SEAL

Vice President

Asst. Secretary

Not a corporation on June 15, 1937

1-7717



1937

UNITED STATES

CORPORATION INCOME AND EXCESS-PROFITS TAX RETURN

1937

Treasury Department (FORM 1120) Internal Revenue Service

For Calendar Year 1937 or Fiscal Year

beginning 1937, and ended 1938

PRINT PLAINLY CORPORATION'S NAME AND ADDRESS

11 102605
JOINT B-2
Pacific Southwest Realty Company
(Name)
215 West Sixth Street
(Street and number)
Los Angeles Los Angeles California
(Post office) (County) (State)
Kind of business: REAL ESTATE DEVELOPMENT

File No. 1, 5
Serial No. 10,150
District (County's Name)
Clerk Clerk M. G.
Post Person

EXCESS-PROFITS TAX COMPUTATION

Item No.		Rate	Amount of Tax
1. Net income for excess-profits computation (Item 28, Schedule A)	\$ 401,921 26		
2. State value of capital stock as declared in your capital stock tax return for the year ended June 30, 1937 (or in your capital stock tax return for the year ended June 30, 1936, if your income tax fiscal year began in 1937 and ended on or after July 31, 1938)	\$ 6,180,120.52		
3. Enter here 10 percent of Item 2	\$ 618,012 05		
4. Dividends received credit (85 percent of Schedule F, column 3)	\$ 618,012 05		
5. Excess subject to excess-profits tax (Item 1 minus Items 3 and 4)	\$ None		
6. Amount taxable at 5 percent (8 percent of Item 2, but not more than Item 5)		5%	
7. Balance taxable at 12 percent (Item 5 minus Item 6)		12%	
8. Total excess-profits tax			\$ None

NORMAL TAX COMPUTATION

9. Net income for income tax computation (Item 31, Schedule A)	\$ 401,921 26		
10. Dividends received credit (85 percent of Schedule F, column 3)	\$ 618,012 05		
11. Balance subject to normal tax (Item 9 minus Item 10 or 11)	\$ 401,921 26		
12. Tax on portion of Item 11 not in excess of \$5,000	\$ 2,000 00	8%	\$ 160 00
13. Tax on portion of Item 11 in excess of \$5,000 and not in excess of \$15,000	\$ 13,000 00	11%	\$ 1,430 00
14. Tax on portion of Item 11 in excess of \$15,000 and not in excess of \$40,000	\$ 25,000 00	12%	\$ 3,000 00
15. Tax on portion of Item 11 in excess of \$40,000	\$ 341,921 26	15%	\$ 51,288 19
17. Total normal tax in Items 12 to 15			\$ 59,128 19
NORMAL TAX ON CORPORATIONS NOT SURVEYED OR GRANTED NORMAL TAX RATES (to be used in Box of the normal tax rates above)			
16. Items 16 above			
18. Banks and trust companies (see Instruction II)		15%	
19. Insurance companies		15%	
20. Corporations entitled to the benefits of section 261 of the Revenue Act of 1936		15%	
21. Corporations organized under the China Trade Act, 1922		15%	
22. Foreign corporations engaged in trade or business within the United States or having an office or place of business therein		22%	

UNDISTRIBUTED PROFITS SURTAX COMPUTATION

(See Instruction III regarding corporations exempt from surtax)

23. Net income for income tax computation (Item 31, Schedule A)	\$ 401,921 26		
24. Normal tax (Item 17 above)	\$ 59,128 19		
25. Credit for holding company affiliate or national mortgage association (see Instruction III (d) and (e))	\$ 59,128 19		
26. Adjusted net income (Item 26 minus Items 24 and 25)	\$ 342,793 07		
27. Dividends paid credit (See 13, Schedule M)	\$ 572,834 19		
28. Credit for contracts restricting dividend payments (see Instr. III)	\$ 572,834 19		
29. Undistributed net income (Item 26 minus Items 27 and 28)	\$ None		
30. Portion of Item 29 taxable at 7%; 84,000 or 10% of Item 26, whichever is greater (but not more than Item 29)		7%	
31. Portion of Item 29 taxable at 12%; 10% of Item 26 (but not more than Item 29 minus Item 30)		12%	
32. Portion of Item 29 taxable at 17%; 20% of Item 26 (but not more than Item 29 minus Items 30 and 31)		17%	
33. Portion of Item 29 taxable at 22%; 20% of Item 26 (but not more than Item 29 minus Items 30 to 32)		22%	
34. Portion of Item 29 taxable at 27%; (Item 26 minus Items 30 to 33)		27%	
35. Total surtax in Items 30 to 34			\$ None
36. Total normal tax and surtax (Item 17 plus Item 35, or Item 18, 19, 20, 21, or 22)			\$ 59,128 19
37. Less: Credit for income tax of a foreign country or U. S. possession allowed a domestic corporation (see Instruction IV)			\$ 59,128 19
38. Balance of tax (Item 36 minus Item 37)			\$ None
39. Excess-profits tax (Item 8 above)			\$ None
40. Total tax due (Item 38 plus Item 39)			\$ 59,128 19

NOTE.—One form marked "DUPLICATE COPY" must be filed with this original return (916 will be needed if a duplicate copy is not filed).

GROSS INCOME			
1	Interest on bonds, notes, mortgages, etc.		
2	Dividends from stocks		
3	Gross profit from sales of merchandise		
4	Gross profit from sales of real estate		
5	Gross profit from operations of business		
6	Gross profit from operations of other business		
7	Interest on loans, notes, mortgages, bonds, bank deposits, etc.		
8	Interest on obligations of the United States (from Schedule B, line 19 (a))		
9	Rents	1,200,855	10
10	Royalties		
11	Capital gain (or loss) (from Schedule D). (If a net loss, do not enter over \$1,000)		
12	Dividends (from Schedule F)		
13	Other income (state nature of income) Schedule No. 1 attached	2,259	40
14	Total income in items 3, and 6 to 13, inclusive		\$ 1,232,624 20
DEDUCTIONS			
15	Compensation of officers (from Schedule G)		
16	Salaries and wages (not deducted elsewhere)	155,400	74
17	Rent		
18	Repairs	55,400	38
19	Bad debts (from Schedule H)		
20	Interest	277,674	43
21	Taxes (from Schedule I). (Do not include Federal excess-profits tax)	195,732	07
22	Contributions or gifts (from Schedule J)		
23	Losses by fire, storm, etc. (Submit schedule, see Instruction 23)		
24	Depreciation (from Schedule K)	137,342	57
25	Depletion of mines, oil and gas wells, timber, etc. (Submit schedule, see Instruction 25)		
26	Other deductions authorized by law (from Schedule L)	116,285	18
27	Total deductions in items 15 to 26, inclusive		937,912 94
28	Net income for excess-profits tax computation (Item 14 minus Item 27)		\$ 401,921 26
29	Less: Federal excess-profits tax (see Instruction 29)		
30	Interest on obligations of the United States (Item 8, above)		
31	Net income for income tax computation (Item 28 minus Item 29 and 30)		\$ 401,921 26

Schedule B.—RECONCILIATION OF NET INCOME AND ANALYSIS OF EARNED SURPLUS AND UNDIVIDED PROFITS

1. Total distributions to stockholders charged to earned surplus during the taxable year	\$ 350,000 00	17. Earned surplus and undivided profits as shown by balance sheet at close of preceding taxable year (Schedule N)	\$ 689,894 40
2. Contributions or gifts (excess over 3 percent limitation)		18. Net income for income tax computation (Item 31, Schedule A)	401,921 26
3. Federal income taxes	83,251 08	Not taxable in whole or in part (a) exempt income	
4. Income taxes of United States possessions or foreign countries if claimed as a credit in whole or in part in Item 37, page 1 of return		(a) Interest on:	
5. Federal taxes paid on tax-free covenant bonds		(1) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions	
6. Special improvement taxes tending to increase the value of the property assessed		(2) Obligations of United States issued on or before September 1, 1917, Treasury Notes, Treasury Bills, and Treasury Certificates of Indebtedness	
7. Replacements, renewals and capital expenditures charged to expenses on the books		(3) United States Savings Bonds and Treasury Bonds owned in the principal amount of \$4,000 or less	
8. Insurance premiums paid on the life of any officer or employee where the corporation is directly or indirectly a beneficiary		(4) United States Savings Bonds and Treasury Bonds owned in the principal amount of over \$4,000	
9. Unallowable interest incurred in purchasing or carrying exempt interest obligations		(5) Obligations of instrumentalities of the United States	
10. Excess of capital loss, if any, over amount allowable as a deduction in Item 11, Schedule A		(6) Other non-taxable income (itemize):	
11. Additions to surplus reserves (list each reserve separately):		(1)	
(a)		(2)	
(b)		(3)	
(c)		(4)	
12. Other unallowable deductions:		20. Charges against surplus reserves deducted from income in the return (itemize):	
(a)		(a)	
(b)		(b)	
(c)		(c)	
13. Adjustments for tax purposes not recorded on books (itemize):		21. Adjustments for tax purposes not recorded on books (itemize):	
(a)		(a) Unamortized Discount	
(b)		(b) an Debt Retired	
(c)		(c)	
14. Sundry debits to earned surplus (itemize):		22. Sundry credits to earned surplus (itemize):	
(a)		(a)	
(b)		(b)	
(c)		(c)	
15. Earned surplus and undivided profits as shown by balance sheet at close of the taxable year (Schedule N)	689,894 97	(d)	
16. Total of lines 1 to 15	\$ 1,123,091 05	23. Total of lines 17 to 22	

NOTE.—Attach to this return and mark as Schedule B-1, B-2, etc., analyses of surplus reserves, if any, as shown by the balance sheets (Schedule N), additions to which are not deductible for income and excess-profits tax purposes.

Franchise Tax - California	25,115	25	Social Security Tax	1,424	00
Franchise Tax - Delaware	350	00	Unemployment Ins. Tax - Calif.	2,907	84
Personal Property Tax	8	58			
Real Property Tax	101,745	71			
Capital Stock Tax - Federal	0,160	00			
			Total taxes payable	198,732	07

Schedule J.—CONTRIBUTIONS OR GIFTS (See instructions 22)

[illegible]

Total (enter as item 22, Schedule A, subject to 5 percent limitation per Instruction 22)

Schedule K—DEPRECIATION (See Instruction 24)

[illegible]

Total (enter as item 24, Schedule A)

Schedule L—OTHER DEDUCTIONS (See instruction 26)

Schedule No. 2 Attached

Schedule M.—DISTRIBUTIONS TO STOCKHOLDERS AND DIVIDENDS PAID CREDIT (See Instruction III)

Distributions Out of Earnings or Profits of the Taxable Year or Out of Earnings or Profits Accumulated Since February 28, 1913 (Indicate date paid)		1. Taxable Distributions	2. Nontaxable Distributions
1. Cash		\$ 350,000.00	
2. Assets other than cash or the corporation's own securities: (See notes 1 and 5.) (Indicate nature of assets.)			
3. Treasury stock. (See notes 1 and 5)			
4. Obligations of the corporation (bonds, notes, scrip, etc.). (See notes 3 and 5)			
5. Common stock of the corporation distributed to holders of common stock. (See notes 3 and 5)			
6. Preferred stock of the corporation distributed to holders of common stock. (See notes 2, 4, and 5)			
7. Common stock of the corporation distributed to holders of preferred stock. (See notes 2, 4, and 5)			
8. Preferred stock of the corporation distributed to holders of preferred stock. (See notes 2, 4, and 5)			
9. Optional—Medium of payment elected by stockholders: (a) Cash (b) Common stock. (See notes 3 and 5) (c) Other. (See note 5.) (Specify nature)			
10. Totals of Items 1 to 9		\$ 350,000.00	
DIVIDENDS PAID CREDIT			
11. Taxable distributions (line 10, column 1)		\$ 350,000.00	
12. Dividend carry-over from preceding taxable year (attach schedule of computation)			
13. Dividends paid credit (total of lines 11 and 12). (Enter on Item 27, page 1)			
14. Adjusted net income (Item 26, page 1)			
15. Dividend carry-over (line 13 minus line 14)			
RECONCILIATION			
16. Total distributions out of earnings or profits of the taxable year or out of earnings or profits accumulated since February 28, 1913 (total of columns 1 and 2, line 10)		\$ 350,000.00	
17. Total distributions charged to earned surplus and undivided profits, as shown on line 1, Schedule B		\$ 350,000.00	
18. Total distributions during the taxable year regardless of source		\$ 350,000.00	

In case the amounts entered on lines 16, 17, and 18 are not the same, explain difference

NOTES:

- Notes:
1. Enter the lesser of the two following amounts determined as of the time of distribution: (a) The adjusted basis in the hands of the corporation as provided in section 113 of the Revenue Act of 1950, as amended; or (b) the fair market value.
 2. Enter the amount of the fair market value at time of distribution.
 3. Enter the lesser of the two following amounts determined as of the time of distribution: (a) Face value or (b) fair market value.
 4. Preferred stock for this purpose should be considered as stock which is preferred as to other dividends or assets in liquidation of the corporation. Dividends on this or other stock or other obligations of the corporation should be entered in the column for "Dividends." Dividends not applicable to the assets, stocks or other obligations for which rights were distributed.

	For the Year		For the Taxable Year	
	Amount	Total	Amount	Total
ASSETS				
1. Cash.....		\$ 45,100 97		\$ 124,004 90
2. Notes receivable.....	\$ 1,800 00		\$ 347 60	
3. Accounts receivable.....	1,210 00		341 37	
(a) Total of lines 2 and 3.....	2,471 00		1,496 87	
(b) Less reserve for bad debts.....		2,471 00		1,496 87
4. Inventories:				
(a) Raw materials.....	\$		\$	
(b) Work in process.....				
(c) Finished goods.....				
(d) Supplies.....				
5. Investments (Government obligations):				
(a) Obligations of a State, Territory, or political subdivision thereof, or the District of Columbia, or United States possessions.....	\$		\$	
(b) Obligations of the United States.....				
(c) Obligations of instrumentalities of the United States.....				
6. Other investments:				
(a) Stocks of domestic corporations.....	\$		\$	
(b) Bonds of domestic corporations.....				
(c) Stocks and bonds of foreign corporations.....				
(d) Treasury stock.....				
(e) All other investments or loans.....				
7. Deferred charges:				
(a) Prepaid insurance, taxes, etc.....		11,659 29		10,119 61
8. Capital assets:				
(a) Buildings.....	\$ 6,095,957 80		\$ 6,169,657 53	
(b) Machinery and equipment.....				
(c) Furniture and fixtures.....				
(d) Delivery equipment.....				
(e) Other depreciable assets.....				
(f) Total of lines (a) to (e).....	\$ 6,095,957 80		\$ 6,169,657 53	
(g) Less reserve for depreciation.....	1,590,670 71	4,505,287 09	1,728,053 28	4,441,604 25
(h) Depreciable assets.....	\$		\$	
(i) Less reserve for depletion.....				
(j) Land.....		5,245,399 47		5,245,399 47
9. Other assets (itemize below):				
Construction account.....	\$ 28,852 06		\$	
		28,852 06		
10. Total Assets.....		\$ 9,839,666 68		\$ 9,822,667 11
LIABILITIES AND CAPITAL				
11. Accounts payable.....		\$ 1,567 28		\$ 7,877 11
12. Bonds, notes, and mortgages payable (with original maturity of less than 1 year).....				
13. Bonds, notes, and mortgages payable (with original maturity of 1 year or more).....		8,618,000 00		7,598,000 00
14. Accrued expenses:				
(a) Interest.....	\$		\$	
(b) Taxes.....				
(c) All others.....				
15. Other liabilities (itemize below):				
Retained Earnings.....	\$ 5,205 00		\$ 1,950 00	
		5,205 00		1,950 00
16. Surplus reserves (itemize below):				
	\$		\$	
17. Capital stock:				
(a) Preferred stock.....	\$		\$	
(b) Common stock.....	No Par, No Stated Value		No Par, No Stated Value	
18. Paid-in or capital surplus.....		525,000 00		1,825,000 00
19. Earned surplus and undivided profits.....		689,894 40		689,839 99
20. Total Liabilities and Capital.....		\$ 9,839,666 68		\$ 9,822,667 11

Schedule O.—CHANGES IN CORPORATION'S OBLIGATIONS AND CAPITAL STOCK (See Instruction O)

	Obligations	Preferred Stock*	Common Stock
1. Total cash receipts during taxable year on SHAW-WALKER corporation's own interest-bearing obligations with original maturity of 1 year or more and capital stock.....	\$ 520,000 00	\$	\$
2. Total cash expenditures during taxable year for purchase or retirement of corporation's own interest-bearing obligations with original maturity of 1 year or more and capital stock.....	1,560,000 00		
3. Difference between lines 1 and 2.....	\$ 1,040,000 00	\$	\$

* Preferred stock for this purpose should be considered as stock which is preferred as to other dividends or assets, irrespective of formal designation.

MANUFACTURING	MANUFACTURING	MANUFACTURING	NONMANUFACTURING
Food and kindred products Beverages Tobacco products Textiles Lumber and wood products Paper and allied products Printing, publishing, and communications Chemical and allied products Petroleum and coal products Rubber, plastic, and leather Stone, clay, and glass products Metal products and primary metal industries Instruments, related, and miscellaneous Miscellaneous manufacturing	Food and kindred products Beverages Tobacco products Textiles Lumber and wood products Paper and allied products Printing, publishing, and communications Chemical and allied products Petroleum and coal products Rubber, plastic, and leather Stone, clay, and glass products Metal products and primary metal industries Instruments, related, and miscellaneous Miscellaneous manufacturing	Food and kindred products Beverages Tobacco products Textiles Lumber and wood products Paper and allied products Printing, publishing, and communications Chemical and allied products Petroleum and coal products Rubber, plastic, and leather Stone, clay, and glass products Metal products and primary metal industries Instruments, related, and miscellaneous Miscellaneous manufacturing	Finance Insurance Real estate Transportation and communication Public utilities Service

QUESTIONS

1. Date of incorporation May 31, 1933
2. State or country Cal.
3. State collector's office where your return for the preceding year was filed San Francisco, Calif.
4. The corporation's books are in care of Mr. J. M. Jones, 203 E. 30th St., Los Angeles, Calif.
5. Is this a consolidated return of railroad corporations? No If so, an additional return on Form 1000 must be filed.
6. Is this a consolidated return of railroad corporations? No If so, an additional return on Form 1000 must be filed.
7. Is this a consolidated return of railroad corporations, and (a) you owned at any time during the taxable year 50 percent or more of the voting stock of another corporation either domestic or foreign or (b) any corporation, individual, partnership, trust or association, owned at any time during the taxable year 50 percent or more of your voting stock, attach separate schedule showing with respect to each: (1) name and address, (2) percentage of stock owned, (3) date stock was acquired, and (4) the collector's office in which the income tax return of such corporation, individual, partnership, trust, or association for the last taxable year was filed.
8. Was the income of this corporation included in a consolidated return for any prior year? Yes If so, give name and address of corporation which filed the consolidated return and the last year for which such return was filed Period from 1-1 to 11-16-33, with Security-First National Bank, Los Angeles; Period from 12-17 to 12-31-37 with Security-First National Bank of Los Angeles
9. Was the corporation in any way an outgrowth, result, continuation, or reorganization of a business or businesses in existence during this or any prior year since December 31, 1917? No If answer is "yes," give name and address of each predecessor business, and the date of the change in entity

AFFIDAVIT (See Instruction F)

We, the undersigned, president (or vice president, or other principal officer) and treasurer (or assistant treasurer, or chief accounting officer) of the corporation for which this return is made, being severally duly sworn, each for himself depose and say that this return (including any accompanying schedules and statements) has been examined by him and is, to the best of his knowledge and belief, a true, correct, and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1935, as amended, and the Revenue Acts of 1936 and 1937, and the regulations issued thereunder.

Subscribed and sworn to before me this

11th day of March, 1938

J. M. Jones
President

J. M. Jones
Treasurer

(If this return was prepared by some person or persons other than officers or employees of the corporation, the following affidavit must be executed)

AFFIDAVIT (See Instruction F)

I/we swear (or affirm) that I/we prepared this return for the person named herein and that the return (including any accompanying schedules and statements) is a true, correct, and complete statement of all the information respecting the income tax and/or excess-profit tax liability of the person for whom this return has been prepared of which I/we have any knowledge.

Subscribed and sworn to before me this

11th day of March, 1938

J. M. Jones
Auditor

J. M. Jones
Auditor

J. M. Jones
Auditor

J. M. Jones
Auditor

J. M. Jones
Auditor

J. M. Jones
Auditor

J. M. Jones
Auditor

Pacific Southwest Realty Company, Los Angeles
Year 1937

EXPLANATION OF TREATMENT OF SECURITIES DESIGNATED 5½% CUMULATIVE PREFERRED SERIAL STOCK.

At the beginning of the taxable year there was outstanding \$1,000,000 par value of securities issued for \$953,142 during the year 1928. These securities were designated as 5½% Cumulative Preferred Serial Stock and were treated as preferred stock in taxpayer's income tax returns for the year 1928 and subsequently. During this same period quarterly disbursements of 1⅜% of the par value to holders thereof were treated as dividends.

As explained in taxpayer's letter of February 3, 1938 to the Commissioner of Internal Revenue, it is believed that these securities were, in fact, evidences of indebtedness of taxpayer, that holders thereof were creditors of taxpayer, and that the quarterly disbursements to said creditors were payments of interest on this indebtedness. Taxpayer's return for the taxable year ended December 31, 1937 has been made in conformity with this belief.

Said securities were called for redemption on July 1, 1937, at 102% of par value.

In this return the \$1,000,000 par value of securities, reported as Preferred Stock in the closing balance sheet for the taxable year ended December 31, 1936, is reflected in Item 13 of the balance sheet for the beginning of the year. The \$41,250 disbursed during the year to the holders of such securities as

dividends is included in Item 20, and the premium and unamortized discount in Item 26, of Schedule "A". [134]

Pacific Southwest Realty Company, Los Angeles
Year 1937

SCHEDULE NO. 1—OTHER INCOME

Item 13

Service Fees	\$44,627.83
Agency Fees	3,000.00
Commissions received on telephones.....	206.23
Commissions received on towels.....	97.48
Sale of baled waste paper.....	286.73
Miscellaneous	111.13
<hr/>	
Total.....	\$48,529.40

SCHEDULE NO. 2—OTHER DEDUCTIONS
AUTHORIZED BY LAW

Item 26

Refinancing expense	\$ 1,539.62
Lighting assessment	632.64
Insurance	13,177.78
Window washing, services, etc.....	7,550.83
Building equipment—miscellaneous replacements	328.07
Water, fuel, power and light.....	28,379.98
Engineers,' janitors', and watchmen's supplies	3,176.65
Directors' fees	125.00
Commission	2,381.03
Postage, stationery and supplies.....	828.07
Telephone and telegraph.....	684.29
Subscription and dues.....	553.11
Legal	2,386.45
Auto and travel	758.27
Miscellaneous	2,507.97
2% premium on debt retired.....	20,000.00
Unamortized discount on debt retired.....	31,275.39
<hr/>	
Total.....	\$116,285.15

SCHEDULE No. 3

Pacific Southwest Realty Company, Los Angeles

Year 1937

SCHEDULE K—EXPLANATION OF DEDUCTION FOR DEPRECIATION

Kind of Property	2. Date Acquired	3. Cost	5. Deprecia- tion allowed (or allowable) in prior years	6. Remaining Cost to be Recovered	7. Life used in accumu- lating Depreci- ation (Years)	8. Est. remain- ing life from be- ginning of year (Years)	9. Depre- ciation allowable this year
Buildings							
1. Alhambra—Brick.....	7- 1-23	\$ 32,727.28	\$ 11,678.07	\$ 21,049.21	13 1/2	27 1/2	\$ 765.42
2. Carpinteria—Brick.....	7- 1-23	15,446.92	5,109.74	10,337.18	13 1/2	34 1/2	299.62
3. El Centro—Brick.....	7- 1-23	20,209.45	7,285.16	12,924.29	13 1/2	26 1/2	487.71
4. Glendale—Brick.....	7- 1-23	11,251.10	4,084.49	7,166.61	13 1/2	26 1/2	270.43
5. Hanford—Brick.....	7- 1-23	45,650.00	25,222.33	20,427.67	13 1/2	13 1/2	1,513.16
8. Guadalupe—Brick.....	7- 1-23	9,602.31	3,108.40	6,493.91	13 1/2	34 1/2	188.22
10. Lemoore—Brick.....	7- 1-23	21,000.00	7,623.76	13,376.24	13 1/2	26 1/2	504.76
11. Lompoc—Brick.....	7- 1-23	29,151.56	10,528.15	18,623.41	13 1/2	26 1/2	702.77
12. Los Alamos—Brick.....	7- 1-23	6,020.83	2,185.75	3,835.08	13 1/2	26 1/2	144.72
13. Main & Commercial—Brick.....	7- 1-23	12,027.25	6,325.48	5,701.77	13 1/2	16 1/2	345.56
14. Sixth & Spring—Steel & Concrete.....	7- 1-23	678,516.36	234,027.27	444,489.09	13 1/2	25 1/2	17,430.94
15. Ocean Park—Brick.....	7- 1-23	40,510.76	14,706.87	25,803.89	13 1/2	26 1/2	973.73
16. Orentt—Concrete.....	7- 1-23	8,273.75	3,853.52	4,420.23	13 1/2	26 1/2	166.80
17. Oxnard—Brick.....	7- 1-23	78,361.02	21,157.47	57,203.55	13 1/2	36 1/2	1,567.22
18. San Luis Obispo—Brick.....	7- 1-23	22,655.24	8,960.90	13,694.34	13 1/2	19 1/2	702.27
19. San Luis Obispo—Brick.....	7-10-24	2,090.92	1,061.48	1,029.44	12 1/2	17 1/2	58.82
20. Marine—Brick.....	7- 1-23	48,183.00	17,340.97	30,842.03	13 1/2	26 1/2	1,163.85
21. Santa Maria—Brick*	7- 1-23	100,000.00	27,000.00	73,000.00	13 1/2	36 1/2	2,000.00
22. Tulare—Brick.....	7- 1-23	40,000.00	16,219.51	23,780.49	13 1/2	19 1/2	1,219.51
23. Venice—Brick.....	7- 1-23	25,571.50	9,142.59	16,428.91	13 1/2	26 1/2	619.96
24. Visalia—Brick.....	7- 1-23	59,349.50	28,377.77	30,971.73	13 1/2	16 1/2	1,877.07
25. Whittier—Brick.....	7- 1-23	26,460.55	8,829.52	17,631.03	13 1/2	33 1/2	526.30
26. Redlands—Brick.....	7- 1-23	4,281.90	2,252.01	2,029.89	13 1/2	16 1/2	123.02
27. Redlands—Steel & Concrete.....	7- 1-23	97,318.70	25,968.63	71,350.07	13 1/2	36 1/2	1,954.80
33. Lindsay—Brick.....	4-28-24	34,765.92	16,861.14	17,904.78	12 2/3	17 1/3	1,032.97
36. Exeter—Brick.....	4-28-24	6,000.00	2,050.69	3,949.31	12 2/3	27 1/3	144.49
38. Saticoy—Concrete.....	4-28-24	6,000.00	2,050.69	3,949.31	12 2/3	27 1/3	144.49
39. Fillmore—Concrete.....	4-28-24	20,900.99	5,350.32	15,550.67	12 2/3	27 1/3	568.93
40. Brawley—Brick.....	4-28-24	14,683.37	6,903.16	7,780.21	12 2/3	17 1/3	448.86
40. Brawley—Brick.....	4-28-24	10,110.67	4,752.04	5,358.63	12 2/3	17 1/3	309.15
40. Brawley Add.—Concrete.....	5- 1-36	5,200.69	69.32	5,131.37	2/3	49 1/3	104.00
41. Calipatria—Brick.....	4-28-24	22,994.00	9,799.33	13,194.67	12 2/3	27 1/3	482.73
21. Santa Maria—Brick*	7- 1-23	5,582.72	2,119.17	3,463.55	13 1/2	19 1/2	177.62

Kind of Property	2. Date Acquired	3. Cost	5. Depreciation allowed (or allowable) In prior years	6. Remaining Cost to be Recovered	7. Life used in accumulating Depreciation (Years)	8. Est. remaining life from beginning of year (Years)	9. Depreciation allowable this year
42. Westmorland—Concrete	4-28-24	\$ 18,000.00	\$ 5,625.42	\$ 12,374.58	12 2/3	34 1/3	\$ 360.42
43. Avalon & Vernon—Brick	6-24-25	32,000.00	8,576.40	23,423.60	11 1/2	38 1/2	608.40
44. Santa Paula—Concrete & Brick	6-24-25	60,000.00	17,470.03	42,529.97	11 1/2	35 1/2	1,198.03
45. Fullerton—Brick	6-24-25	69,077.60	21,886.65	47,190.95	11 1/2	28 1/2	1,655.82
45. Fullerton—Concrete & Hollow Tile	9-15-30	9,611.66	1,568.14	8,043.52	6 1/2	33 1/2	240.11
47. Jefferson & University—Brick	1925	54,750.00	15,815.83	38,934.17	12	38	1,024.58
48. Desmond's—Brick & Concrete	1925	430,014.18	122,785.80	307,228.38	12	38	8,084.96
49. Porterville—Brick	9-28-27	45,408.85	11,225.59	34,183.26	9 1/4	30 3/4	1,111.65
A. Seventh & Witmer—Brick	6-24-25	25,000.00	9,986.78	15,013.22	12	28	536.19
B. Pasadena—Concrete	1- 1-25	1,303,830.00	312,000.00	991,830.00	12	38	26,051.06
Dohrmann—Concrete	7- 1-27	70,652.75	17,475.84	53,176.91	9 1/2	30 1/2	1,743.50
C. Pasadena—Concrete	7- 1-28	270,488.56	48,616.15	221,872.41	9	41	5,411.52
D. Highland & Hollywood—Steel & Con.	7- 1-28	514,024.31	87 377.78	426,646.53	8 1/2	41 1/2	10,280.64
F. Fresno—Concrete & Brick	1- 1-25	1,112,858.50	267,085.99	845,772.51	12	38	22,257.17
Fresno—Air Conditioning System	9- 1-36	70,835.02	1,558.61	69,276.41	1/3	14 2/3	4,223.39
G. Sixth & Alvarado—Brick	7- 3-28	33,458.32	8,014.66	25,443.66	8 1/2	31 1/2	807.73
H. Carthay Center—Brick	7- 3-28	26,081.45	4,769.99	21,311.46	8 1/2	41 1/2	513.53
I. Jefferson & Arlington—Concrete	7- 3-28	19,840.42	3,628.61	16,211.81	8 1/2	41 1/2	390.64
J. La Brea—Brick	7- 3-28	66,355.21	11,926.09	54,429.12	8 1/2	41 1/2	1,311.54
K. Belvedere Gardens—Brick	7- 3-28	14,014.55	1,851.73	12,162.82	8 1/2	41 1/2	246.78
L. Moneta—Brick	7- 3-28	12,225.35	2,672.54	9,552.81	8 1/2	31 1/2	303.26
M. Culver City—Brick	7- 3-28	15,576.00	3,761.72	11,814.28	8 1/2	31 1/2	375.06
P. San Fernando—Brick	7- 3-28	86,110.80	18,634.78	67,476.02	8 1/2	31 1/2	2,142.10
Q. Altadena—Brick	7- 3-28	40,882.45	8,869.40	32,013.05	8 1/2	31 1/2	1,016.28
R. Santa Barbara—Brick	7- 3-28	94,133.76	20,578.23	73,555.53	8 1/2	31 1/2	2,335.10
S. Dinuba—Brick	7- 3-28	18,542.60	4,053.55	14,489.05	8 1/2	31 1/2	459.97
Eighth & Olive—Brick	12- 1-35	39,957.51	848.70	39,108.81	1	34	925.79
Santa Monica Bldg.—Brick & Concrete	1- 1-37	30,453.64	0.00	30,453.64	0	50	609.07
Santa Monica—Fixtures	1- 1-37	24,575.78	0.00	24,575.78	0	15	1,638.38
		\$6,169,657.53	\$1,590,670.71	\$4,578,986.82			\$137,382.57

SCHEDULE NO. 4

Pacific Southwest Realty Company, Los Angeles

Year—1937

SCHEDULE OF 50% OR MORE OWNED CORPORATION

	<u>Percentage of Stock Owned</u>	<u>Acquired</u>	<u>Return Filed</u>
Pacific Southwest Realty Company (of California), Los Angeles, California	100.	1923	California Sixth

SCHEDULE OF 50% OR MORE VOTING STOCK
OWNED BY ANOTHER

	<u>Percentage of Stock Owned</u>	<u>Acquired</u>	<u>Return Filed</u>
Security-First National Bank of Los Angeles, Los Angeles, California	100.	1933	California Sixth [138]

SCHEDULE NO. 5

Pacific Southwest Realty Company, Los Angeles

Year—1937

DIVIDEND CARRY-OVER FROM PRECEDING
TAXABLE YEAR

Schedule M—Line 12

Cash Distributions During the Calendar Year 1936..	\$702,325.63
Adjusted Net Income as Shown by Form 1120 for the Calendar Year 1936.....	479,489.44
Dividend Carry-Over for 1937.....	\$222,836.19
	[139]

DIVIDEND ON COMMON STOCK

Resolved, that a cash dividend of \$7.00 a share on the 50,000 shares of common stock of this Company, amounting to \$350,000.00, be and the same is hereby declared out of the earned surplus of this Company payable December 30, 1937, to stockholders of record December 29, 1937.

I, G. C. Cook, Secretary of the Pacific Southwest Realty Company, hereby certify that the above and foregoing is a full, true and correct copy of a Resolution unanimously adopted by the Board of Directors of said Company at a meeting duly and regularly called and held December 22, 1937, at which meeting a quorum was present and voted; and that said Resolution has not been repealed or amended and that the same is still in full force and effect.

(Seal)

G. C. COOK,
Secretary.

Dated: Feb. 15, 1938. [140]

POWER OF ATTORNEY

Know All Men by These Presents:

That we, the undersigned, on behalf of the Pacific Southwest Realty Co. a corporation, having its principal place of business in the city of Los Angeles, State of California, have made, constituted and appointed, and do hereby make, constitute and appoint, Claude I. Parker and/or Thos. R. Benner, of Los Angeles, the true and lawful attorney or

agent for the corporation and in its name and on its behalf to act in all matters pertaining to any Federal Taxes now assessed, proposed to be assessed, or which may hereafter be assessed against said corporation, or the consideration and determination of which may be pending or may hereafter be pending in the Treasury Department at Washington, D. C., or in any Division, Bureau or Section thereof, whether in or out of the said City of Washington; giving and granting unto said attorney or agent full power and authority to do and perform all and every act or thing whatsoever requisite and necessary to be done in and about the premises as fully, to all intents and purposes, as any of the officers of the corporation might do if personally present, with full power of substitution or revocation, hereby ratifying and confirming all that said attorney or agent, or his substitute or substitutes shall lawfully do or cause to be done by virtue of these presents, hereby specifically revoking all prior powers of attorney.

In Witness Whereof, we have hereunto set our hand and seal this 28th day of January, 1931.

PACIFIC SOUTHWEST
REALTY CO.,

By (Signed) W. B. STRINGFELLOW,
Vice-President.

(Corporate Seal)

(Seal)

Attest: (Signed) WM. DOWNEY,

Secretary of the Pacific South-
west Realty Co.

1937 RETURN

CAPITAL-STOCK TAX

For Year Ending June 30, 1937

DOMESTIC CORPORATIONS

(Sec. 166, Revenue Act of 1936, as amended by Sec. 481 of the Revenue Act of 1939)

This return must be filed, in triplicate, and received by the Collector of Internal Revenue for your district on or before July 31, 1937. The tax must be paid on or before that date.

DUPLICATE—Page 2

612-1098

AMOUNT PAID IN ADVANCE

AUG

(Month)

4338

Form 707
TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
REVISED 1937

San Francisco, California

1937

NOTARIES OFFICE

U. S.

To be forwarded by collector, showing district and date received

- Name **Pacific Southwest Realty Company**
(Print name of corporation, partnership, or association)
- Address **215 West Sixth Street, Los Angeles, California**
(The address must be that of the principal place of business. Give "street and number," "city or town," "state," and "country.")
- Name of parent company, if any **Security-First National Bank of Los Angeles**
- Name of subsidiary, if any **Pacific Southwest Realty Co., California** (If more than one, attach list and state number of shares held by parent; also districts where filed)
- Nature of business in detail **Owns and operates improved real estate**
- Incorporated or organized in State of **Delaware** Month **May** Year **1936**
- Was a capital-stock tax return filed for the preceding taxable year ended June 30, 1936? **Yes** (If not, state in different column, state the name)
- Date of close of last income-tax taxable year ended on or prior to June 30, 1937, or, if newly organized, date of organization **December 31, 1936**

Corporations making an original declaration of value upon this return must enter the amount of such declared value in item 9. This block is not to be used by a corporation which established its original declared value by the first return for the year ended June 30, 1936.

9. ORIGINAL DECLARED VALUE OF ENTIRE CAPITAL STOCK

(The value declared must be definite and unqualified. A value must be declared in every case regardless of whether exemption from the tax is claimed.)

Corporations which have established their original declared value by the return for the year ended June 30, 1936, must enter the declared value as provided for in Schedule I on page 3 of this return and then enter the amount of the adjustment in item 10.

10. ADJUSTED DECLARED VALUE OF ENTIRE CAPITAL STOCK (Last item of Schedule I, page 3)

11. EXEMPTIONS.—The Act provides for an exemption from the tax only on the grounds indicated below. Corporation claiming exemption must (1) report a value for the capital stock under item 9 or 10, (2) check the appropriate block in column 2, and (3) submit with the return a full statement of the evidence specified under the block checked.

- ☐ Corporation exempt from income tax under section 101, Revenue Act of 1936. (1) State under what provision of law exempted. (2) Furnish information required by instruction 14.
- ☐ Insurance company subject to tax under section 201, 204, or 207, Revenue Act of 1936. State which section applies.
- ☐ Corporation not doing business. (1) Furnish information required by instruction 14. (2) Report value of capital stock in item 9 or 10 above.

COMPUTATION OF TAX	FOR USE OF TAXPAYER				FOR USE OF INSURANT	
	\$	6	180	120	52	
12. Amount reported in item 9 or 10						
13. Tax at rate of \$1 for each full \$1,000 in item 12 (omit cents)			6	180	XXXX	XXXX
14. Penalty of _____ percent for delinquency in filing return						
15. Interest at 6% per annum beginning August 1, 1937						
16. Total tax, penalty, and interest			6	180		

We, the undersigned **W. B. Stringfeller** Vice President
(Name of president, or any officer or other principal officer)

J. E. Smith Treasurer
(Name of treasurer, assistant treasurer, or chief accounting officer)

return is made, being severally duly sworn, each for himself deposes and says that this return, including any accompanying schedules and statements, has been examined by him and is, to the best of his knowledge and belief, a true and complete return, made in good faith, for the taxable year stated, pursuant to the Revenue Act of 1936, as amended, and the Regulations issued thereunder.

Sworn to and subscribed before me this **29th** day of **July** **1937**

W. B. Stringfeller Vice President
J. E. Smith Treasurer

NOTARIAL SEAL NOTARY PUBLIC CORPORATE SEAL

The schedules on this page must be filled in by every corporation making adjustments to an original declared value for the capital stock established by the return for the year ended June 30, 1936. See Instructions 5 to 9, inclusive.

SCHEDULE I. ADJUSTMENT OF ORIGINAL DECLARED VALUE OF ENTIRE CAPITAL STOCK FOR ALL TRANSACTIONS DURING THE INCOME-TAX TAXABLE YEAR ENDED December 31, 1936

Original declared value as established by the first return for the taxable year ended June 30, 1936. \$9,500,000.00

Additions:

(1) Total cash paid in for stock or shares (see instruction 7, item 1).....	\$.....
(b) Fair market value of all property received for stock or shares (see instruction 7, item 1).....	.....
(2) Paid-in surplus and contributions to capital (see instruction 7, item 2).....	<u>525,000.00</u>
(3) Net income (see instruction 7, item 3).....	<u>562,740.52</u>
(4) Excess of income wholly exempt from tax over amount disallowed as deductions by section 24 (a) (5) of the Revenue Act of 1934 or 1936 (see instruction 7, item 4).....	.....
(5) Dividend deduction allowable for income-tax purposes (see instruction 7, item 5).....	.....
Total additions	<u>1,087,740.52</u>

TOTAL BEFORE DEDUCTIONS

10,587,740.52

Deductions:

(A) (1) Total cash distributed in liquidation to shareholders (see instruction 7, item A).....	<u>3,948,525.00</u>
(2) Fair market value of all property distributed in liquidation to shareholders (see instruction 7, item A).....	.....
(B) Distributions of earnings or profits (see instruction 7, item B).....	<u>459,095.00</u>
(C) Excess of deductions allowable over gross income and claimed on income-tax return (see instruction 7, item C).....	.....
Total deductions	<u>4,407,620.00</u>

ADJUSTED DECLARED VALUE (enter in item 10, page 1).....

6,180,120.52

SCHEDULE II. ANALYSIS OF CHANGES IN CAPITAL STOCK AND SURPLUS

Capital Stock and Surplus at beginning of year

1. Capital stock: Preferred.....	<u>\$4,766,500.00</u>
Common.....	<u>No Par Value</u>
2. Capital or paid-in surplus.....	.....
3. Surplus reserves.....	.....
4. Surplus and undivided profits.....	<u>733,191.67</u>

Additions—Capital transactions

5. Total cash and fair market value of property paid in for stock or shares (total of items 1(a) and 1(b), Schedule I)*.....	.....
6. Paid-in surplus and contributions to capital (item 2, Schedule I)*.....	<u>525,000.00</u>
7. Other additions (to be detailed).....	.....

Deductions—Revenue transactions

8. Net income (item 3, Schedule I).....	<u>562,740.52</u>
9. Income wholly exempt from income tax (This total less the amount entered as item 17 of this schedule should correspond with item 4, Schedule I) (see instruction 7, item 4).....	.....
10. The amount of the dividend deduction allowable for income-tax purposes (item 5, Schedule I) (see instruction 7, item 5).....	.....
11. Other deductions (to be detailed).....	.....
Schedule Attached	<u>157,952.16</u>

TOTAL..... \$6,745,388.35

Deductions—Capital transactions

12. Liquidating distributions (total of items A(1) and A(2), Schedule I)*.....	<u>3,948,525.00</u>
13. Other distributions (item B, Schedule I)*.....	<u>459,095.00</u>
14. Enter class and amount of distributions in corporation's own stock:.....	.....
.....	\$.....
15. Other deductions (to be detailed).....	.....

Deductions—Revenue transactions

16. Excess of deductions allowable over gross income and claimed on income-tax return (item C, Schedule I).....	.....
17. Deductions disallowed by sec. 24 (a) (5), 1934 or 1936 Act. (See item 9 of this schedule).....	.....
18. Other deductions (to be detailed).....	.....
U.S. income tax paid.....	<u>58,607.48</u>
Disallowed capital loss.....	<u>3,056.88</u>
Difference between dividends payable at beginning and end of year included as Reserves in Balance Sheet.....	<u>61,205.63</u>
Capital Stock and Surplus at end of year.....	.....
19. Capital stock: Preferred.....	<u>1,000,000.00</u>
Common.....	<u>No Par Value</u>
20. Capital or paid-in surplus.....	<u>525,000.00</u>
21. Surplus reserves.....	<u>123,750.00</u>
22. Surplus and undivided profits.....	<u>566,144.40</u>
TOTAL	<u>\$6,745,388.35</u>

*Enter values shown by the books if different from values entered in Schedule I and explain difference.

MR. JOHN EARL JARDINE

was called as a witness by petitioner and being first duly sworn testified on direct examination as follows:

Direct Examination

My name is John Earl Jardine. I am president of William R. Staats Co., investment bankers and brokers. I have been connected with the firm for 37 years and have been president since 1920. Since 1905 my services with the company have been rendered in the City of Los Angeles. In the course of my employment my firm has been required to buy and sell stocks and bonds over the counter and on the exchange and I am personally familiar with the manner in which stocks and bonds are traded. My company handled transactions in the 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock of the Pacific Southwest Realty Company and I am personally familiar with the manner in which those transactions were handled. The securities mentioned were not listed on an exchange but were traded in what is commonly known as over-the-counter; that is, by personal solicitation with the holders of the securities or those that contemplate buying them. In these transactions accrued but unpaid dividends were customarily added to the price of the stock. They were added before the dividend declaration, if any, was made, similar to the interest on bonds. It is not the custom in trading in preferred stocks to take into consideration accrued dividends of this type. It is the

(Testimony of John Earl Jardine.)

custom in buying and selling bonds to take into consideration accrued interest. Generally speaking, I would say that so far as our firm is concerned, the general practice in dealing with these securities of the Pacific Southwest Realty Company [57] was to trade in them with accrued dividends. There were occasions when they were handled flat but customarily they were traded in with accrued dividends. The occasions in which our firm traded in said securities flat were almost entirely on the buy side. There were occasions when the stock was purchased flat but as far as I was able to have our records checked, when the securities were sold they were sold plus accrued dividends. I would say that if they were purchased flat on any occasion, the price paid for the security took into consideration the amount of the accrued dividend at that time accrued.

Cross Examination

On cross examination Mr. Jardine testified as follows:

Q. (By Mr. Tonjes): Is it true that when buying a stock which has an excellent record for the payment of dividends over a long period of time that the fact that there is a dividend about due to be declared, based on its previous record of declarations, that that stock is somewhat advanced in price on account of that expected dividend?

A. That would be true in a very orderly market. Of course, if you were getting a breaking mar-

(Testimony of John Earl Jardine.)

ket, why, that would not necessarily be taken into consideration; but in an orderly market, yes, that would be correct.

Q. Well, in a breaking market, most of the rules are discarded in any event, are they?

A. That is true.

Thereupon,

MR. VERNE B. WOOD

was called as a witness by petitioner and having been duly sworn testified as follows:

Direct Examination

My name is Verne B. Wood. I am employed by the Security-First [58] National Bank of Los Angeles as Auditor. That Audit Department of the bank audits the books and records of the Pacific Southwest Realty Company and I render services in connection with the income tax returns of the Pacific Southwest Realty Company. I prepared or supervised the preparation of the income tax returns of the Pacific Southwest Realty Company for the years 1936 and 1937. I am familiar with the securities of the Pacific Southwest Realty Company designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock. In 1936 and 1937 I knew these securities by name but I wasn't familiar with the terms.

(Testimony of Verne B. Wood.)

Q. (By Mr. Kohlmeier) It is stipulated, and the income tax returns introduced as exhibits show, that no deductions were taken in the income tax return filed for the company for 1936 for the payments made on these particular securities or for any portion of the discount at which they were issued or for the premium at which they were retired. Will you explain why these deductions were not taken in that return?

A. The securities are called stocks. The payments that were made to the holders were called dividends, and they were so treated in the return without having given any thought as to whether they might be something else.

Q. Did you ever receive any advice or instructions from the officers of the corporation as to the manner in which these payments should be treated for income tax purposes?

A. I don't recall of ever having discussed the subject.

Q. Did you ever confer with tax counsel in that regard? A. Later, yes.

Q. It is stipulated, and the return for the year 1937 which [59] has been introduced as an exhibit discloses, that the payments and the other expenses connected with these securities were deducted in the 1937 return. Will you explain why your practice in regard to these payments was changed in the year 1937?

(Testimony of Verne B. Wood.)

A. I think it was shortly after the 1937 returns were filed that I read an opinion of the Circuit Court of Appeals in connection with the Jewel Tea Company, and in that case the question to be decided was whether dividends, or a premium, rather, on a security that was called stock, at least, was deductible in the preparation of income tax returns. And the remarks of the Court were to the effect that the name of a security was not determinative of its character, and a security called a stock might be a bond or a bond might be a stock in reality, and I looked up other court cases. I knew that the certificates of the Pacific Southwest Realty Company provided for retirement serially, so I made it a point to study the certificates and find out their terms, and I found out that there was a provision for retirement at specified dates, and there was also provision in there for the holders of the security to enforce payment; and it was after that that I consulted counsel when it was determined that the securities represented an obligation of the company, and in 1937 all of the outstanding securities were retired and I believe there is a premium, and we decided that in the '37 return that the payments should be treated as interest and should be deducted. And that was likewise true of the discount and expense that we had failed to amortize over the life of the security.

MR. ROBERT H. PARSONS

was called as a witness by petitioner and having been duly sworn testified on direct examination as follows:

Direct Examination

My name is Robert H. Parsons. I am president of the Pacific [60] Company of California, which company is engaged in the business of investment dealers—dealers and brokers. I have been employed with that company since 1934 and prior to that time I was employed by the Security First Company, which company was also a dealer and broker in securities. The First Securities Company was the predecessor of Security First Company and I was vice-president of that company. In connection with my employment I have become personally familiar with the manner in which stocks and bonds are traded on the stock exchange or over the counter. Our company handled transactions in the 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock of the Pacific Southwest Realty Company. The First Securities Company was the principal underwriter of said securities. I am personally familiar with the manner in which the transactions in those securities were handled by my company. With respect to accrued but undeclared dividends, we almost entirely bought and sold them with accrued dividends added. It was not the custom in trading in preferred stocks to trade them with accrued dividends added. It was the custom in

(Testimony of Robert H. Parsons.)

dealing in bonds to trade in them with the accrued interest, if the bonds were not in default. That practice was not followed to my knowledge in trading in any other preferred stock.

Cross Examination.

On cross examination Mr. Parsons testified as follows:

I was vice-president of the First Securities Company until the merger of the First National Bank of Los Angeles with the Security Trust and Savings Bank. I believe it was from about 1923 or 1924 but I haven't the exact date. I think I was vice-president of the company at the time the Pacific Southwest Realty Company first issued its preferred [61] stock. I do not recall my election to the vice-presidency but I was in a similar capacity as manager of the sales organization at the time the Pacific Southwest Realty Company issued its preferred stock, but I am not quite sure whether I was vice-president or an officer. At the time the securities in question were issued the First Securities Company owned all of the stock of the Pacific Southwest Realty Company, petitioner herein.

There being no further evidence the matter was submitted to the Board.

The foregoing evidence including the Stipulation of Facts and exhibits attached thereto is all the evidence adduced at the hearing before the Board of Tax Appeals material to the issues presented on appeal, and the same is approved by the undersigned as attorneys for the petitioner on review.

CLAUDE I. PARKER

JOHN B. MILLIKEN

BAYLEY KOHLMEIER

Attorneys for Petitioner.

Of Counsel:

L. A. LUCE

937 Munsey Building,

Washington, D. C.

The foregoing evidence including the Stipulation of Facts and exhibits attached thereto is all the evidence adduced at the hearing before the Board of Tax Appeals material to the issues presented on appeal, and the same is approved by the undersigned as attorneys for the respondent.

J. P. WENCHEL

W

Attorneys for Respondent.

[Endorsed]: U. S. B. T. A. Filed Jan. 21, 1942.

[62]

[Title of Board and Cause.]

STIPULATION OF FACTS

It is hereby stipulated and agreed by and between the parties hereto, through their respective counsel of record, that the following facts are true and may be found as facts by the United States Board of Tax Appeals.

1. Petitioner corporation was duly organized under the laws of the State of Delaware on May 31, 1923 and thereafter, in June 1923, qualified to do business in the State of California and established its principal place of business in Los Angeles, California. Petitioner filed its income tax returns for the years 1936 and 1937 with the Collector of Internal Revenue for the Sixth District of California at Los Angeles, California.

2. Petitioner was incorporated by persons affiliated with the Pacific Southwest Trust and Savings Bank and the First National Bank of Los Angeles for the purpose of acquiring and thereafter owning and operating all the real estate properties owned by the Pacific Southwest Trust and Savings Bank and one parcel of real estate owned by the First National Bank of Los Angeles, and for the further purpose [63] of providing additional bank premises as the growth of the banks required. The reasons for the organization of petitioner were those stated in the letter attached hereto as Exhibit "D".

3. A true and correct copy of Article Fourth of

the Certificate of Incorporation of petitioner is attached hereto, marked Exhibit "A", and by this reference made a part hereof.

4. All of the common stock of petitioner, except directors' qualifying shares, was issued during the year 1923 to the First Securities Company, a corporation. A true copy of the certificates issued to evidence said common stock of petitioner is attached hereto, marked Exhibit "B", and by this reference made a part hereof. All of the stock of said First Securities Company and all of the stock of the Pacific Southwest Trust and Savings Bank and the First National Bank of Los Angeles was owned by the Los Angeles Trust & Safe Deposit Company, a corporation, as trustee, in trust for the benefit of the owners of beneficial certificates which were issued by said Los Angeles Trust & Safe Deposit Company. All of the stock of the Los Angeles Trust & Safe Deposit Company was owned by First Securities Company.

5. During the years 1923, 1924 and 1925 petitioner issued and sold its securities designated 6½% Cumulative Preferred Serial Stock of the total par value of \$4,500,000 in accordance with and pursuant to the authority granted it by Article Fourth of its Certificate of Incorporation. A true copy of the certificates issued to evidence said 6½% Cumulative Preferred Serial Stock is attached hereto, marked Exhibit "C", and by this reference made a part hereof. Said securities were issued in twenty-three series designated A to W inclusive,

Series A of said securities was to mature and become payable on July 1, 1929 and the remaining series [64] were to mature and become payable successively on July first of each year thereafter to and including the year 1951. At all times herein mentioned after the issuance of said 6½% Cumulative Preferred Serial Stock petitioner regularly made payments to the holders thereof at the rate of 6½% of the par value per annum at the times and in the manner provided in said certificates.

6. A true and correct copy of the letter which was sent on or about June 8, 1923 by Pacific Southwest Trust and Savings Bank to the owners of the beneficial interest in the stock of Pacific Southwest Trust and Savings Bank, First National Bank of Los Angeles and First Securities Company, in which the said beneficial owners were offered the right to subscribe to the 6½% Cumulative Preferred Serial Stock to be issued by petitioner, is attached hereto, marked Exhibit "D", and by this reference made a part hereof. A true and correct copy of the prospectus which was published in connection with the issuance and sale of petitioner's 6½% Cumulative Preferred Serial Stock in 1923 is attached hereto, marked Exhibit "E", and by this reference made a part hereof.

7. Series A of said 6½% Cumulative Preferred Serial Stock matured and was redeemed on July 1, 1929 and Series B, C, D, E, F and G of said securities matured and were redeemed respectively on July first of each year thereafter to and including 1935.

At the beginning of the year 1936 securities of petitioner designated 6½% Cumulative Preferred Serial Stock were issued, outstanding and unma-tured of a total par value of \$3,766,500.00. During the year 1936 all of said securities were redeemed and retired. During the year 1936 petitioner made payments to the holders of said 6½% Cumulative [65] Preferred Serial Stock at the rate of 6½% per annum of the par value thereof, or, to wit, \$65,-300.63, as provided in the certificates.

8. Under date of July 1, 1923 petitioner leased certain of its properties to Pacific Southwest Trust and Savings Bank for a term of thirty years commencing on July 1, 1923 and ending on June 30, 1953. A true and correct copy of portions of said lease is attached hereto, marked Exhibit "F", and by this reference made a part hereof.

9. On December 16, 1927 Article Fourth of the Certificate of Incorporation of petitioner was amended. A true and correct copy of Article Fourth of the Certificate of Incorporation of petitioner as amended on December 16, 1927 is attached hereto, marked Exhibit "G", and by this reference made a part hereof.

10. During the year 1928 pursuant to the author-ity granted it by Article Fourth of its Certificate of Incorporation, as amended on December 16, 1927, petitioner issued and sold its securities designated 5½% Cumulative Preferred Serial Stock of the total par value of \$1,000,000. A true copy of the certificates issued to evidence said 5½% Cumula-tive Preferred Serial Stock is attached hereto,

marked Exhibit "H", and by this reference made a part hereof. A true and correct copy of the prospectus which was published in connection with the issuance and sale of petitioner's 5½% Cumulative Preferred Serial Stock in 1928 is attached hereto, marked Exhibit "I", and by this reference made a part hereof. Said securities designated 5½% Cumulative Preferred Serial Stock were issued in twenty-two series designated AA to VV inclusive. Series AA was to mature and become payable on July 1, 1939 and the remaining series [66] were to mature and become payable successively on July first of each year thereafter to and including the year 1960.

11. During the year 1936 there were issued and outstanding securities of petitioner designated 5½% Cumulative Preferred Serial Stock of the par value of \$1,000,000. All of said securities were redeemed and retired during the year 1937. During the years 1936 and 1937 petitioner made payments to the holders of said securities, as provided in the certificates, at the rate of 5½% of the par value thereof, or, to wit, \$55,000.00 during the year 1936 and \$41,250.00 during the year 1937.

12. Petitioner's securities designated 5½% Cumulative Preferred Serial Stock issued and sold as aforesaid were sold at discounts of \$3.00 and \$5.00 per \$100 par value. The total discount at which said securities were sold was \$46,858.00. If the discount at which said securities were sold was a deductible expense it was an expense which it was proper to amortize and deduct over the life of said securities

and \$1,833.26 of said discount expense was properly allocable to the year 1936 and \$31,275.39 of said discount expense was properly allocable to the year 1937.

13. During the year 1936 petitioner redeemed and retired all of its then outstanding securities designated 6½% Cumulative Preferred Serial Stock for the face value thereof plus a total premium of \$182,025.00.

14. During the year 1937 petitioner redeemed and retired all of its then outstanding securities designated 5½% Cumulative Preferred Serial Stock for the face value thereof plus a total premium of \$20,000.00. [67]

15. During the year 1929 petitioner sold certain real property located in the City of Los Angeles, State of California, under a conditional sales contract. Under the provisions of said contract petitioner retained title to said property until the purchase price was paid. On November 15, 1935, by reason of the default of the purchaser of said property, petitioner cancelled the sales contract and repossessed said property. At the time said property was repossessed by petitioner there were assessed but unpaid property taxes against said property in the amount of \$5,618.35. Said taxes were payable one-half on or before December 5, 1935 and one-half on or before April 20, 1936. During the year 1936 petitioner paid said property taxes in full. Petitioner deducted said sum of \$5,618.35, under the provisions of Section 23(c) of the Revenue Act of

1936, in computing its net taxable income for the year 1936.

16. In its income tax return for the year 1936 petitioner failed to take deductions for the payments made on its securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock, failed to take deduction for the portion of the discounts at which its securities designated 5½% Cumulative Preferred Serial Stock were issued and sold which was allocable to the year 1936, and failed to take a deduction for the premium paid upon the redemption of its securities designated 6½% Cumulative Preferred Serial Stock. In its income tax return for the year 1936 petitioner reported net taxable income in the amount of \$562,740.52 and a tax liability in the amount of \$83,251.08. Petitioner paid said tax in installments as follows: \$20,812.77 on [68] March 15, 1937 and like amounts on June 12th, September 13th, and December 13, 1937. Petitioner's return for the year 1936 was filed on March 15, 1937.

17. Upon examination of petitioner's income tax return for the year 1936 the Commissioner disallowed the deduction taken by petitioner for real estate taxes in the amount of \$5,618.35 and determined the net income of petitioner for the year 1936 to be \$568,358.87. The deficiency proposed to be assessed for the year 1936 in the amount of \$842.75 resulted from the disallowance of said deduction and the consequent increase in petitioner's net income. In redetermining petitioner's net in-

come for the year 1936 the Commissioner did not allow any deductions for the payments made by petitioner during said year on its securities designated 6½% Cumulative Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock, did not allow a deduction for any portion of the discount at which petitioner's securities designated 5½% Cumulative Preferred Serial Stock were issued and did not allow a deduction for the premiums paid by petitioner upon the redemption of its securities designated 6½% Cumulative Preferred Serial Stock.

18. On March 6, 1940 petitioner filed with the Collector of Internal Revenue for the Sixth District of California, at Los Angeles, California, its written claim for refund of income taxes overpaid by it for the year 1936 in the amount of \$53,900.53, setting forth therein the same facts and grounds herein alleged and relied upon. A true copy of said claim for refund is attached to the Petition herein, marked Exhibit "B", and is by this reference made a part hereof.

19. In its income tax return for the year 1937 petitioner [69] deducted as interest paid the payments made on its securities designated 5½% Cumulative Preferred Serial Stock in the amount of \$41,250.00, deducted the sum of \$31,275.39 as the portion of the discount at which said securities designated 5½% Cumulative Preferred Serial Stock were issued and sold which was properly allocable to the year 1937 and deducted the premium paid in the amount of \$20,000.00 upon the redemption of said securities designated 5½% Cumulative Pre-

ferred Serial Stock. The Commissioner refused to allow said deductions and as a result thereof has proposed the deficiency for the year 1937 herein contested.

20. On May 22, 1940 petitioner paid to the Collector of Internal Revenue for the Sixth District of California the deficiencies in income taxes proposed to be assessed against petitioner for the years 1936 and 1937 herein contested. Said payments were as follows: \$842.75 tax and \$161.09 interest, or a total payment of \$1,003.84 for the year 1936 and \$13,878.81 tax and \$1,820.21 interest, or a total payment of \$15,699.02 for the year 1937.

21. During the years 1923 and 1924 petitioner issued and sold its bonds of a total face value of \$3,000,000.00. A true and correct copy of the form of said bond certificates [70] is attached hereto, marked Exhibit "J", and by this reference made a part hereof.

22. Petitioner kept its books of account and made its income tax returns on the cash receipts and disbursements basis.

23. Petitioner used the proceeds received by it from the sale of its securities designated Cumulative Preferred Serial Stock and the sale of its First Mortgage Bonds for the purchase of real estate from the Pacific Southwest Trust and Savings Bank, the First National Bank of Los Angeles and other real estate suitable for the purposes of the corporation.

24. The payments made by petitioner to the holders of its securities designated 61½% Cumula-

tive Preferred Serial Stock and 5½% Cumulative Preferred Serial Stock were authorized by resolutions of the Board of Directors of petitioner. A true copy of one of the resolutions is attached hereto, marked Exhibit "K", and by this reference made a part hereof.

(s) CLAUDE I. PARKER

(s) JOHN B. MILLIKEN

(s) BAYLEY KOHLMEIER

808 Bank of America Building,
Los Angeles, California,
Counsel for Petitioner.

(s) J. P. WENCHEL

For the Bureau of Internal Revenue
Counsel for Respondent

Of Counsel:

(s) L. A. LUCE

937 Munsey Building
Washington, D. C.

Dated: [71]

EXHIBIT "A"

Article Fourth of the Certificate of Incorporation
of Petitioner Provided as Follows:

"Fourth: The total authorized capital stock of this corporation is One Hundred Thousand (100,000) shares, divided into Fifty Thousand (50,000) shares of preferred stock of the par value of One Hundred Dollars (\$100.00) each, amounting in the ag-

gregate to Five Million Dollars (\$5,000,000.00), and Fifty Thousand (50,000) shares of common stock, which shares shall have no nominal or par value. Said preferred stock shall be designated '6½% Cumulative Preferred Serial Stock'.

"Said 6½% Cumulative Preferred Serial Stock shall be issued by the corporation in twenty-three (23) series, to be designated by letters A to W, both inclusive, and each series shall be for the respective number of shares, and redeemable at their par value plus all unpaid, accrued, or accumulated dividends thereon, on the respective dates as follows:

Series	No. of Shares	Redeemable On
A.....	1,100	July 1, 1929
B.....	1,100	July 1, 1930
C.....	1,100	July 1, 1931
D.....	1,100	July 1, 1932
E.....	1,250	July 1, 1933
F.....	1,250	July 1, 1934
G.....	1,250	July 1, 1935
H.....	1,400	July 1, 1936
I.....	1,400	July 1, 1937
J.....	1,700	July 1, 1938
K.....	1,700	July 1, 1939
L.....	1,700	July 1, 1940
M.....	2,000	July 1, 1941
N.....	2,300	July 1, 1942
O.....	2,300	July 1, 1943
P.....	2,600	July 1, 1944
Q.....	2,900	July 1, 1945
R.....	3,050	July 1, 1946
S.....	3,350	July 1, 1947
T.....	3,650	July 1, 1948
U.....	3,950	July 1, 1949
V.....	4,450	July 1, 1950
W.....	3,400	July 1, 1951

“Said 6½% Cumulative Preferred Serial Stock may be issued as and when the Board of Directors of the corporation shall determine, but no preferred stock shall be issued except for the purpose of acquiring with the proceeds of the sale thereof property suitable for one or more of the purposes of the corporation. Said 6½% Cumulative Preferred Serial Stock shall be issued for cash at not less than ninety-six per cent (96% of the par value of said stock. The amount of preferred stock to be issued for such purpose shall not exceed, however, One [72] Hundred per cent (100%) of the appraised value of the property purchased, or to be purchased, with such proceeds. The aggregate indebtedness of the corporation secured by mortgage, deed of trust, or otherwise, shall not exceed in amount Fifty per cent (50%) of the appraised value of the property subject thereto. The total amount of preferred stock of the corporation at any time outstanding shall not, together with the total bonded indebtedness of the corporation, exceed One Hundred per cent (100%) of the appraised value of the property of the corporation. Said appraisements shall be made as of the date the corporation acquires said property. The appraisal of such property by an appraiser selected by the Superintendent of Banks of California, or by the Commissioner of Corporations of California, or by any official which shall be the successor of either of said officials, or if there is no such official qualified to make the selection of such appraiser, or if

such officials shall fail to select such appraiser, by an appraiser selected by the Trustee in any trust indenture executed by the corporation to secure any of its bonded indebtedness, shall be sufficient to establish said appraised values, and a certificate made and filed in the office of the corporation by such appraiser, that said property was appraised, setting forth the appraised value thereof, together with a detailed statement of the various items of property appraised with their individual values, shall be conclusive evidence of the appraised value of said property for the purpose of the issuance of said stock and for all other purposes. Before the issuance of any such stock, the President of the corporation shall file a certificate in the office of the corporation setting forth in detail the property purchased or to be purchased with the proceeds of the sale of such stock.

“If the corporation shall sell or exchange any of its property, it will within such reasonable time as it may require, do one or more or any combination of the following: (a) substitute for such property so sold or exchanged property of substantially such sale or exchange value; such sale or exchange value to be determined by an appraisement thereof made in the manner, with the effect, and by an appraiser selected as provided elsewhere in this Article Fourth: (b) purchase with the proceeds of such sale preferred stock of the corporation as permitted by this certificate; (c) purchase with the proceeds of such sale bonds of the corporation as

may be permitted by any indenture or mortgage securing the same.

“Said 6½% Cumulative Preferred Serial Stock shall be entitled to receive in each year out of the surplus or net profits of the business of the corporation, dividends at the rate of 6½% per annum, and no more, upon the par value of said stock from date of issue, payable quarterly as [73] follows: On October 1st, January 1st, April 1st, and July 1st of each year.

“The dividends on all of the preferred stock of the corporation shall be cumulative, so that if in any year or years the dividends thereon shall not have been paid, such dividends shall be paid in full before any dividends shall be paid or set apart from the common stock. The amount of any serial redemption of said preferred stock, if overdue, shall be paid before any dividends shall be paid or set apart on the common stock.

“Whenever the dividends upon all of the then issued and outstanding preferred stock for all past dividend periods shall have been declared, and the same shall have been paid by the corporation or the funds therefor set aside, the Board of Directors may declare dividends upon the common stock, payable at such a time as the Board may fix, out of any remaining surplus or net profits, provided that no dividends shall be declared, set apart, or paid on the common stock, and the holders thereof shall not be entitled to receive dividends thereon, until an amount equal to the amount or two full yearly

dividends on the then issued and outstanding preferred stock of the corporation shall have been set aside or deposited and maintained with Pacific Southwest Trust & Savings Bank, or such other trust company doing business in Los Angeles as the Board of Directors of the corporation shall by resolution designate.

“In the event of any liquidation, dissolution, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6½% Cumulative Preferred Serial Stock shall be entitled, before any distribution shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation and then remaining intact, or in case such profits shall be insufficient, then from the general assets of this corporation, an amount equal to 105% of the par value of said stock.

“The whole or any part of the 6½% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the payment of 105% per share, plus all unpaid, accrued, or accumulated dividends thereon. At least thirty (30) days notice of such redemption shall be given by mail, at their respective addresses as shown on the books of the corporation, to the stockholders of record on the books of this corporation whose stock is redeemed, and such notice shall also be given by publication in a newspaper of general circulation published in the City of Los Angeles, and in a newspaper of general circulation published in the City of San Francisco,

State of California, once a week for at least thirty (30) days prior to the date fixed for such redemption. Such redemption shall be by such method as shall be provided from time to time by resolution of the Board of Directors of the corporation, and at such time and place as shall be specified in the notice. From and after the date fixed in [74] any such notice as the date of redemption, unless default shall be made by this corporation in providing moneys at the time and place as aforesaid for the payment of the redemption price of said stock, all dividends on such stock so called for redemption shall cease to accrue, and from and after said date all the rights of the holders thereof as stockholders of this corporation, except the right to receive such redemption price, shall cease and determine. All numbers of the certificates of said preferred stock so redeemed shall be appropriately cancelled on the books of this corporation and the stock evidenced thereby shall not be reissued.

“The whole or any part of the 6½% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock, plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such use would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled as

redeemed stock, and when so cancelled shall not be reissued.

“On the 1st day of July, 1929, all of the Eleven Hundred (1100) shares of Series A, 6½% Cumulative Preferred Serial Stock then outstanding shall be redeemed at par, plus unpaid, accrued, and accumulated dividends thereon. Such redemption shall be made at the office of the corporation at the City of Los Angeles, State of California, and from and after said date, unless default shall be made by the corporation in providing moneys at said time and place for the payment of the redemption price of said stock, all dividends on said Series A, 6½% Cumulative Preferred Serial Stock shall cease and determine, and from and after said date all the rights of the holders thereof as stockholders of the corporation, except the right to receive such redemption price, shall cease and determine. All numbers of the certificates of said Series A, 6½% Cumulative Preferred Serial Stock so redeemed shall be appropriately cancelled on the books of this corporation, and the stock evidenced thereby shall not be reissued.

“In the event that the corporation shall fail to redeem said Series A, 6½% Cumulative Preferred Serial Stock at such time and place, the holders thereof shall have the right to enforce payment of the par value of said stock so agreed to be redeemed, together with the amount of any unpaid, accrued, or accumulated dividends thereon, the same as on any unconditional claim or debt against the cor-

poration, and upon payment thereof the right of the holders thereof as stockholders of the corporation shall cease and determine and said Series A, 6½% Cumulative Preferred Serial Stock so paid shall be appropriately cancelled upon the books of the corporation and said stock shall not be reissued.

“The corporation shall also redeem, on the 1st day of [75] July of each of the respective years 1930 to 1951, both inclusive, all of the outstanding shares of said respective Series B to W, both inclusive, 6½% Cumulative Preferred Serial Stock, upon the same terms and conditions, except as to the year of redemption, as are herein provided for said Series A, and the holders of each of said respective series shall have the same rights with respect thereto as are hereinbefore conferred upon the holders of Series A.

“So long as said dividends on said preferred stock shall be paid as herein provided, the holders of the preferred stock shall have no voting power on any question, except as provided by statute, or by this certificate, but on the contrary, the sole and exclusive voting power shall be vested in the holders of the common stock, but should any dividend on any preferred stock be not paid when payable as herein provided, and remain unpaid for ninety (90) days thereafter, then and so long as such dividend, or any part thereof, remains unpaid, the issued and outstanding preferred stock shall be exclusively entitled to the voting power, except as otherwise provided by statute, but upon such dividend, or unpaid

part thereof, being paid, the voting power of the preferred stock shall cease and the voting power reinvest in the common stock, and so on from time to time as said dividend, or part thereof, may remain unpaid, or may be paid as aforesaid.

“No shares of said preferred stock shall enjoy any preference over any other shares of said preferred stock.

“The preferred stock shall be issued as, and shall be, fully paid up and non-assessable.

“The shares of common stock, without nominal or par value, may be issued by the corporation from time to time for such consideration as may be fixed from time to time by the Board of Directors.” [76]

INCORPORATED UNDER THE LAWS OF
THE STATE OF DELAWARE
MAY 31, 1929

No. 17

Pacific Southwest Realty Company

PREFERRED STOCK \$5,000,000 - 50,000 SHARES
PAR VALUE \$100.00 EACH

COMMON STOCK 50,000 SHARES - WITHOUT
NOMINAL OR PAR VALUE PER SHARE

This Certifies that

J. A. N. JONES

Shares

Date

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1/14/12

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Shares of the Common Stock of the PACIFIC SOUTHWEST REALTY COMPANY, a corporation, with nominal or par value, transferable only on the books of the Corporation by the holder hereof in person or by attorney, on the surrender of this certificate properly endorsed. The 6 1/2% Cumulative Preferred Serial Stock shall be issued by the Corporation in twenty-three (23) series, to be designated by letters A to W, both inclusive, and each series shall be for the respective number of shares, and redeemable at their par value plus all unpaid, accrued, or accumulated dividends thereon, on the respective dates as follows:

Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable
A	1,000	July 1, 1929	E	1,000	July 1, 1933	I	1,000	July 1, 1937	M	2,000	July 1, 1941	O	2,000	July 1, 1945	U	2,000	July 1, 1949
B	1,100	July 1, 1930	F	1,100	July 1, 1934	J	1,700	July 1, 1938	N	2,200	July 1, 1942	P	2,200	July 1, 1946	V	4,000	July 1, 1950
C	1,200	July 1, 1931	G	1,200	July 1, 1935	K	1,700	July 1, 1939	O	2,200	July 1, 1943	Q	2,200	July 1, 1947	W	2,000	July 1, 1951
D	1,300	July 1, 1932	H	1,400	July 1, 1936	L	1,700	July 1, 1940	R	2,400	July 1, 1944	S	2,500	July 1, 1948			

The 6 1/2% Cumulative Preferred Serial Stock shall be entitled to receive in each year out of the surplus or net profits of the business of the corporation, dividends at the rate of 6 1/2% per annum, and no more, upon the par value of said stock from date of issue, payable quarterly as follows: On October 1st, January 1st, April 1st, and July 1st of each year. The dividends on all of the preferred stock of the corporation shall be cumulative so that if in any year or years the dividends thereon shall not have been paid, such dividends shall be paid in full before any dividends shall be paid or set apart upon the common stock. The amount of any serial redemption of said preferred stock, if ordered, shall be paid before any dividends shall be paid or set apart on the common stock.

Whenever the dividends upon all of the then issued and outstanding preferred stock for all past dividend periods shall have been declared, and the same shall have been paid by the corporation or the funds thereof set aside, the Board of Directors may declare dividends upon the common stock, payable at such time as the Board may fix, out of any remaining surplus or net profits, provided that no dividends shall be declared, not paid, or paid on the common stock, and the holders thereof shall not be entitled to receive dividends thereon, until an amount equal to the amount of two full yearly dividends on the then issued and outstanding preferred stock of the corporation shall have been set aside or deposited and maintained with Pacific-Southwest Trust and Savings Bank, or such other trust company doing business in Los Angeles as the Board of Directors of the corporation shall by resolution designate.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, or accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 105% of the par value of said stock plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such stock, when so purchased, shall be cancelled.

Notwithstanding any limitation, restriction, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 6 1/2% Cumulative Preferred Serial Stock shall be entitled, before any dividends shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation, and then remaining assets, or in case such profits shall be insufficient, then first the general assets of this corporation, an amount equal to 100% of the par value of said stock. The whole or any part of the 6 1/2% Cumulative Preferred Serial Stock may be redeemed on any dividend date upon the surrender of 100% per share, plus all unpaid, accrued, and accumulated dividends thereon, upon 30 days' notice.

No. 712

- 1 - Shares

Pacific Southwest Realty Company

COMMON STOCK 50,000 SHARES - WITHOUT
NOMINAL OR PAR VALUE

Series V Redeemable July 1st, 1950

This Certifies that

MR. WARD: O. BATH.

CNF

Shares of the fully-paid 6½% Cumulative Preferred
 Dollars (\$100.00) each, transferable only on the books of
 6½% Cumulative Preferred Serial Stock shall be issued
 for the respective number of shares, and redeemable at

Series Stock of the PACIFIC SOUTHWEST REALTY COMPANY, a corporation, of the par value of One Hundred Dollars (\$100.00) each, transferrable only on the books of the corporation by the holder herein in person or by attorney on the surrender of this certificate properly indorsed. The 4 1/2% Cumulative Preferred Series Stock shall be issued by the corporation in twenty-three (23) series, to be designated by letters A to W, both inclusive, and each series shall be for the respective number of shares, and redeemable at their par value plus all unpaid, accrued, or accumulated dividends thereon, on the respective dates as follows:

Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable	Series	No. Shares	Redeemable
A	3,100	July 1, 1959	E	1,850	July 1, 1953	N	1,000	July 1, 1957	O	3,100	July 1, 1954
B	1,100	July 1, 1956	F	1,250	July 1, 1954	J	1,700	July 1, 1955	P	3,100	July 1, 1954
C	2,100	July 1, 1953	G	1,100	July 1, 1958	K	2,300	July 1, 1953	Q	2,850	July 1, 1946
D	1,100	July 1, 1953	H	1,700	July 1, 1955	L	2,300	July 1, 1948	R	2,850	July 1, 1947
			I	1,250	July 1956	M	2,300	July 1, 1948	S	2,850	July 1, 1947
			J	1,250	July 1956				T	2,850	July 1, 1947
			K	1,250	July 1956				U	2,850	July 1, 1947
			L	1,250	July 1956				V	2,850	July 1, 1947
			M	1,250	July 1956				W	2,850	July 1, 1947
			N	1,250	July 1956				X	2,850	July 1, 1947
			O	1,250	July 1956				Y	2,850	July 1, 1947
			P	1,250	July 1956				Z	2,850	July 1, 1947

The 6% Cumulative Preferred Serial Stock shall be entitled to receive in each year out of the surplus or net profit of the business of the corporation, dividends at the rate of 6 1/2% per annum, and no more, upon the full value of stock held from date of issue, calculated as follows: On October 1st, January 1st, April 1st, and July 1st of each year. The dividends on all of the preferred stock of the corporation shall be calculated on that if in any year or years the dividends thereon shall not have been paid in full, the dividends in arrears shall be paid on the next date when dividends shall be paid or set apart upon the common stock. If full redemption of said preferred stock, if overdue, shall be paid before any dividends shall be paid or set apart of the common stock. The amount of any

[illegible]

The corporation shall by resolution designate:

a. the person or any liquidation, dissolution, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said 14% Cumulative Preferred Serial Stock shall be entitled, before any dividend or other payment of any kind shall be made to the holders of the common stock of the corporation, to be paid out of the surplus profits arising from the business of this corporation, and then remaining intact, or in case such profits shall be insufficient, to be paid out of the assets of the corporation, an amount equal to the whole or any part of the 14% Cumulative Preferred Serial Stock any of which is redeemed or any dividend due upon the same;

b. the payment of 105% per share, plus all unpaid, accrued, or accumulated dividends thereon, upon the death of the shareholder.

The whole or any part of the 6 1/4% Cumulative Preferred Stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed 10% of the par value of said stock, plus unpaid, accrued, and accumulated dividends thereon, provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such purchase would cause an impairment of the capital of the corporation. Such restriction shall not be construed to prevent the corporation from purchasing its own stock in the open market.

[illegible]

to the extent that the corporation shall fail to redeem said Series A, 6 1/4% Cumulative Preferred Serial Stock at such time and place, the holders thereof shall have the right to enforce payment of the value of the said stock, together with the amount of any unpaid, or commencing dividends thereon, the same or on any unconditional claim or debt against the corporation, and upon payment of the said claim or debt, the holders thereof, or the corporation shall issue and deliver said Series A, 6 1/4% Cumulative Preferred Serial Stock on paid up basis and the same shall be appropriately cancelled upon the books of the corporation and said stock shall not be claimed.

The corporation shall also redeem on the first day of July of each of the respective years 1930 to 1931, both inclusive, all of the outstanding shares of said respective Series B to F, both inclusive, 8 1/2% cumulative Preferred Serial Six, upon the same terms and conditions, except as to the year of redemption, as to said Series A, and the holders of each of said redemption series shall have the same right with respect thereto as are hereinbefore conferred upon the holders of Series A.

§ 30-36(a)(3) said, dividends on said preferred stock shall be paid on herein provided, the holders of the preferred stock shall have no voting power on any questions, except as by this certificate, or by any action of the board of directors, the full and exclusive voting power shall be vested in the holders of the common stock, but should any dividend on any preferred stock be not paid when payable as herein provided, and remain unpaid for a period of six months, the holders of such preferred stock shall be entitled to vote on all questions, and the voting power of the common stock shall cease and the voting power remain in the common stock, and so on from time to time as said dividend, or said partial, may remain unpaid, or may be paid in arrears.

no corporation reserves the right to amend, alter, change or repeal any provision contained in the Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders are subject to this reservation; provided, however, that the affirmative vote of two-thirds of the preferred stock, voting as a class, shall be required for the adoption of any amendment altering or changing the preference of one or more classes of preferred stock, authorized by the Certificate of Incorporation, or increasing or decreasing the amount of the authorized stock of such class or classes of preferred stock, or increasing or decreasing the dividend thereon.

IN WITNESS WHEREOF, said Corporation has caused this certificate
unto affixed, this _____ day of _____

to be signed by its duly authorized officers and its corporate seal to be here-

SECRETARY

PRESIDENT

EXHIBIT "D"

The First National Bank of Los Angeles
Pacific-Southwest Trust & Savings Bank
First Securities Company

Los Angeles

Jun. 8, 1923 I.R.C.

The growth of our business necessitates the provision of additional facilities at many points where we now operate if our customers are to be adequately and efficiently cared for. This will require a further substantial investment in real estate and buildings suitable for bank premises in the next few years, in addition to our present holdings owned or held under contract, which are valued at approximately four million dollars.

The locking up of too great a proportion of our capital and surplus in such fixed assets as banking premises is thought to be inadvisable. Accordingly we have devised a plan which has received the approval of the Boards of Directors of both our banking institutions, whereby the banks' present and prospective investment in real estate and buildings suitable for bank purposes may be released and the funds now invested therein be utilized for general banking purposes.

Through the medium of a subsidiary company and the employment of outside capital for a period of years, this may be accomplished with benefit to our stockholders and without sacrificing in any way at any time entire control of our bank premises while ultimately complete ownership is attained.

We have, therefore, organized the Pacific Southwest Realty Company for the purpose of taking over from our banks the real estate and buildings owned by us and utilized wholly or in part in the conduct of our banking business. The acquisition of additional property in the future suitable for banking premises, and the construction of buildings thereon will likewise be undertaken by the Realty Company and will be financed by it without recourse to the banks' funds.

From and after July 1, 1923, the above properties will be owned and operated by the Pacific Southwest Realty Company, which will lease to the Pacific-Southwest Trust & Savings Bank those properties now occupied as bank premises, for an annual rental which shall always be sufficient, when combined with the revenue which may be obtained from other sources, to pay all operating costs, upkeep, maintenance, repairs, taxes and insurance on the different properties and also all interest and dividend and amortization charges on the securities to be issued by the Realty Company. Under the terms of this lease all securities issued by the Realty Company will be retired within thirty years, leaving the properties free and clear of indebtedness.

The entire common stock of the Pacific Southwest Realty Company will be owned by the First Securities Company, which is owned by holders of our Beneficial Certificates, thus maintaining their proportionate interest in all our institutions. [79]

The capitalization of the Pacific Southwest Realty Company will consist of an authorized issue of

\$5,000,000 6½% Cumulative Preferred Serial stock and an authorized issue of \$3,000,000 First Mortgage 5½% Serial bonds, Series "A", and 50,000 shares of common stock of no par value.

To provide funds with which to purchase from The First National Bank of Los Angeles and the Pacific-Southwest Trust & Savings Bank for cash at their appraised valuation their various bank premises and to provide for additional banking facilities, the Realty Company will issue at this time \$3,000,000 First Mortgage 5½% bonds and \$3,000,000 6½% Cumulative Preferred Serial Stock. It is our intention to finance our present needs through the issuance of approximately equal amounts of Preferred stock and bonds. The balance of the Preferred stock will be reserved for issuance under conservative restrictions as our building program may require. We believe that we have provided for our legitimate needs in this direction for some years to come.

Of the above securities, only the \$3,000,000 6½% Cumulative Preferred Serial stock will be offered for subscription, favorable arrangements having been made for the sale to one institution (not our own) of the entire authorized bond issue. We have thought it proper to give our stockholders the prior right to subscribe to the 6½% Cumulative Preferred Serial stock before any public offering is made. The entire block of \$3,000,000 Preferred stock has, however, been underwritten by leading California Investment Banking Houses who will later offer to the public whatever amount is not sub-

scribed by our stockholders at the same price at which this offering is made, viz., \$100 for each share.

No effort has been spared to make this stock as safe intrinsically as it could possibly be made while the price is fixed to correspond to prevailing market conditions. A complete description of the stock is contained in the enclosed circular memorandum and we shall be glad to answer any further questions which you may desire to ask about this security.

From this statement of the plan you will, of course, appreciate that the rental contract with the Pacific-Southwest Trust & Savings Bank assures the payment of interest and dividends and the final retirement of all securities issued by the Realty Company, and I believe that the opportunity to obtain on a profitable income basis a short or long term investment of this character will prove attractive to our stockholders.

You are invited to indicate on the enclosed subscription agreement the amount of stock you desire and the maturities you prefer. Insofar as possible, allotments will be made in accordance with your wishes. This subscription offer is open to stockholders until July 1st. On or before July 10, 1923, subscribers will receive notice of definite allotments and a call for payment in full at the rate of \$100 for each share allotted. Dividends will accrue from date of payment.

Yours sincerely,

HENRY M. ROBINSON

President [80]

EXHIBIT "E"

\$3,000,000

Pacific Southwest Realty Company

6½% Cumulative Preferred Serial Stock

Par Value \$100 Per Share

Authorized \$5,000,000. Present Issue \$3,000,000.

Preferred as to assets and dividends, and in event of liquidation entitled to receive \$105 per share. Dividends at the rate of 6½% are cumulative and payable quarterly on the first days of October, January, April and July. Callable, in whole or in part, on any dividend date upon 30 days' notice, at \$105 per share, plus accrued dividends. Stock may be transferred at the Company's office, 902 Trust and Savings Building, Los Angeles.

In Opinion of Counsel, Exempt from Normal Federal Income Tax and Exempt from Personal Property Tax in California

Pacific-Southwest Trust & Savings Bank,
Los Angeles, Registrar

This stock is issued in series, designated "A" to "W" inclusive, maturing July 1, 1929, to July 1, 1951, respectively.

Mr. Henry M. Robinson, President of the Company, summarizes as follows, from his accompanying letter, the essential features of the issue:

History

The Pacific Southwest Realty Company (a Delaware Corporation) has been organized for the purpose of acquiring and thereafter owning and operating all the real estate properties now owned by the Pacific-Southwest Trust & Savings Bank and one parcel owned by The First National Bank of Los Angeles. The Company will also undertake the providing of additional bank premises and buildings, as the growth of these banks may require.

Purpose of Issue

The proceeds from the present issue of securities will be used in part to acquire from the Pacific-Southwest Trust & Savings Bank title to real estate and buildings with an appraised valuation, as accepted by the Superintendent of Banks of California, of approximately \$4,000,000, and consisting, among others, of the Trust and Savings Building located on the northwest corner of Sixth and Spring Streets, Los Angeles. The balance of the proceeds will be used for the erection of additional suitable banking structures and for the acquisition of additional property suitable for the essential purposes of the Realty Company.

Lease

The properties to be acquired from the banks will be leased to the Pacific-Southwest Trust & Savings Bank for a period of 30 years from July 1, 1923. Under the terms of this lease, the interest on the bonds, the dividends on the Preferred Stock issued by the Realty Company and the annual maturities of stock and bonds are assured by the rental contract.

Special Provisions

The total amount of Preferred Stock at any time outstanding together with the total outstanding bonded indebtedness of the Company shall not combined exceed 100% of the appraised value of the properties of the Company, as accepted by the Superintendent of Banks or by the Commissioner of Corporations of California or by their successors.

The serial maturities of both Preferred Stock and First Mortgage Bonds provide a constantly increasing equity for the securities remaining outstanding.

No dividends may be paid on the Common Stock of the Company until:

1. All dividends on the Preferred Stock have been paid,
2. All matured stock has been redeemed,
3. There shall have been set aside or deposited and maintained with the Pacific-Southwest Trust & Savings Bank, an amount equal

to the amount of two full yearly dividends on the then outstanding Preferred Stock.

This stock shall be issued as fully paid-up and non-assessable. No additional Preferred Stock can be authorized without the consent of two-thirds of the holders of the outstanding Preferred Stock.

Should the dividends on the Preferred Stock remain unpaid for a period of ninety days after the date when such dividends are payable, the outstanding Preferred Stock enjoys exclusive voting power until any arrears in payment are extinguished.

Ownership and Management

The entire issue of Common Stock, which enjoys the sole voting power, is owned by the First Securities Company, which is owned entirely by the holders of First National Bank Beneficial Certificates. The management of the Pacific Southwest Realty Company will be under the direction of Mr. Henry M. Robinson, President, and other officers and directors of The First National Bank of Los Angeles and the Pacific-Southwest Trust & Savings Bank.

All legal proceedings pertaining to the issuance of this stock have been approved by Messrs. Farrand and Slosson, Attorneys, Los Angeles.

We recommend this stock for investment and offer

the unsold portion of this issue, subject to prior sale and to allotment, at

Price Upon Application

First Securities Company

Identical in Ownership With

The First National Bank of Los Angeles

Pacific-Southwest Trust & Savings Bank

Orders may be placed at any office of these banks

Trust and Savings Building, Los Angeles

Telephone 822-361

Pasadena

Long Beach

Fresno

Hollywood

Santa Barbara

Redlands

[81]

Pacific Southwest Realty Company

History

The Pacific-Southwest Realty Company has been incorporated under the laws of Delaware for the purpose of acquiring and thereafter owning and operating all of the real estate properties now owned by the Pacific-Southwest Trust & Savings Bank and occupied, either wholly or in part, by the bank and its branches, and one parcel owned by The First National Bank of Los Angeles. The Company will also undertake the providing of additional bank premises and buildings from time to time, as the

growth of these banks may require. The necessary funds for these purposes will be secured through the sale of the Preferred Stock and Bonds of the Company.

Properties

The proceeds of the present issues of securities will be used in part to acquire from the Pacific-Southwest Trust & Savings Bank title to real estate and buildings with an appraised valuation, as accepted by the Superintendent of Banks of California, of approximately \$4,000,000, and consisting of the Trust and Savings Building located on the northwest corner of Sixth and Spring Streets, Los Angeles, and several other sites utilized by city branches, and also real estate or bank premises at the following twenty-three out of town branch locations, all of which are now owned by the Pacific-Southwest Trust & Savings Bank:

Alhambra	Lindsay
Carpinteria	Lompoc
El Centro	Los Alamos
Fresno	Ocean Park
Glendale	Orcutt
Guadalupe	Oxnard
Hanford	Pasadena
Lemoore	Redlands
San Luis Obispo	Venice
San Pedro	Whittier
Santa Maria	Visalia
Tulare	

The Realty Company will also acquire from The First National Bank of Los Angeles one parcel of real estate at Highland Avenue and Hollywood Boulevard, Hollywood, now occupied by its Hollywood agency.

The balance of the proceeds will be utilized for the erection of suitable banking structures at points where the growth of business has rendered present quarters inadequate and for the acquisition of additional property suitable for the essential purposes of the Realty Company.

Lease

The above properties to be acquired from the banks and thereafter to be owned and managed by the Realty Company will be leased to the Pacific-Southwest Trust & Savings Bank for a period of 30 years from July 1, 1923, at an annual rental which shall always be sufficient, when combined with the revenue received by the Realty Company from other sources, to pay operating costs of the Realty Company, maintenance, upkeep, repairs, taxes and insurance on the properties owned by it and in addition all interest and dividend and amortization charges on the outstanding bonds and Preferred Stock issued by the Realty Company. In other words, under the terms of this lease the interest on the bonds, the dividends on the Preferred Stock and the annual maturities of stock and bonds are assured by the rental contract with the Pacific-Southwest Trust & Savings Bank.

Capitalization

The capitalization of the Pacific Southwest Realty Company will consist of:

	Authorized	To be Issued Presently
First Mortgage 5½% Bonds, Series "A," maturing serially 1924 to 1953 inclusive.....	\$3,000,000	\$3,000,000
6½% Cumulative Preferred Serial Stock	5,000,000	3,000,000
Common Stock, no par value.....	50,000 shrs.	50,000 shrs.

The remaining Preferred Stock will be held in the Company's treasury for issuance, from time to time, as the needs of the Company may require, but only in accordance with the strict provisions governing the issue of the stock and bonds and which at all times protect the equity of the holder of such securities.

Description of Preferred Stock

The Preferred Stock of the Company is preferred both as to assets and dividends. It is issued in series of various amounts which have a definite maturity on July 1st in each of the years from 1929 to 1951 inclusive. On each maturity date the entire series which becomes due is redeemed by the Company at \$100 per share and canceled. The Company may, however, call any or all of its outstanding Preferred Stock for redemption on any dividend date on thirty days' notice at \$105 per share, plus accrued dividends, and all certificates of stock so redeemed shall be canceled.

All or any part of the Preferred Stock may be purchased by the Company upon the open market at not to exceed \$105 per share plus accumulated dividends, provided that such stock when so purchased shall be canceled and shall not thereafter be reissued.

In the event of any liquidation or dissolution of the Company, whether voluntary or involuntary, the Preferred Stock is entitled to receive \$105 per share plus accrued dividends out of the assets of the Company.

The stock may be transferred at the Company's office, 902 Trust and Savings Bldg., Los Angeles. The Pacific-Southwest Trust & Savings Bank is Registrar.

Tax Exemption

The 6½% Cumulative Preferred Serial Stock is, in opinion of counsel, free from the Personal Property Tax in California and likewise free from the Normal Federal Income Tax.

Dividends

Dividends at the rate of 6½% are cumulative and are payable quarterly to stockholders on the first days of October, January, April and July.

Special Provisions

1. No shares of Preferred Stock shall enjoy any preferences over any other shares of Preferred Stock.

2. Preferred stock shall be issued as fully paid up and non-assessable.

3. No additional Preferred Stock can be authorized nor the preferences altered without the consent of two-thirds of the holders of the outstanding Preferred Stock. [82]

4. The Common Stock of the Company may receive dividends only when all Preferred Stock dividends have been paid, all matured stock redeemed and in addition only after an amount equal to the amount of two full yearly dividends on the then outstanding Preferred Stock shall have been set aside or deposited and maintained with the Pacific-Southwest Trust & Savings Bank.

5. Should the dividends on the Preferred Stock remain unpaid for a period of ninety days after the date when such dividends are payable, the outstanding Preferred Stock enjoys exclusive voting power until any arrears in payment are extinguished.

6. In the event of failure to redeem any series of Preferred Stock on the maturity date, the holders thereof have the right to enforce the payment, as in the case of any unconditional claim or debt against the Company.

Equity

Every effort has been made to make the Preferred Stock as sound an investment security as possible, and having established its safety at the outset to provide that the stockholders' equity will never be impaired. To this end the Articles of Incorporation provide that the issuance of securities

is to be based on the appraisalment of the properties made as of the date the Realty Company acquires such properties. Such appraisalment will be made by an appraiser selected by the Superintendent of Banks or by the Commissioner of Corporations of California or by their successors.

The clauses which protect the stockholders' equity are as follows:

(a) The amount of Preferred Stock to be issued shall not exceed 100% of the appraised value of the property purchased or to be purchased with the proceeds of the sale of such Preferred Stock.

(b) The aggregate indebtedness of the corporation secured by mortgage, deed of trust or otherwise, shall not exceed in amount 50% of the appraised value of the property subject thereto.

(c) The total amount, however, of Preferred Stock at any time outstanding under (a), together with the total outstanding bonded indebtedness of the Company that may be issued under paragraph (b), shall not combined exceed 100% of the appraised value of the properties as established above.

It is the intention of the Realty Company to finance its present needs by equal amounts of Preferred Stock and Bonds, i.e., 50% of Preferred Stock and 50% of Bonds. The annual maturities of bonds and stocks will serve to increase the original equity as the different series mature and are retired.

If the corporation sells or exchanges any of its property, it will within a reasonable time substitute for such property so sold or exchanged property of substantially equal value or retire with the proceeds of such sale Preferred Stock and/or Bonds.

Additional Preferred Stock can only be issued for cash for the purpose of acquiring with the proceeds of the sale thereof property suitable for the essential purposes of the Company, and further provided that the above provisions as to appraisal and the ratios of outstanding stocks and bonds are maintained.

Ownership and Management

The entire issue of Common stock, which enjoys the sole voting power, is owned by the First Securities Company, which is owned entirely by the holders of First National Bank Beneficial Certificates. The management of the Pacific Southwest Realty Company will be under the direction of Mr. Henry M. Robinson, President, and other officers and directors to be chosen from the officers and directors of The First National Bank of Los Angeles and the Pacific-Southwest Trust & Savings Bank.

Amounts and Maturities

The 6½% Cumulative Preferred Serial Stock of the Pacific Southwest Realty Company now to be offered is of the following amounts and maturities:

Series	Maturity	Authorized	Offered for Subscription
A	July 1, 1929	\$ 110,000	\$ 66,000
B	July 1, 1930	110,000	66,000
C	July 1, 1931	110,000	66,000
D	July 1, 1932	110,000	66,000
E	July 1, 1933	125,000	75,000
F	July 1, 1934	125,000	75,000
G	July 1, 1935	125,000	75,000
H	July 1, 1936	140,000	84,000
I	July 1, 1937	140,000	84,000
J	July 1, 1938	170,000	102,000
K	July 1, 1939	170,000	102,000
L	July 1, 1940	170,000	102,000
M	July 1, 1941	200,000	120,000
N	July 1, 1942	230,000	138,000
O	July 1, 1943	230,000	138,000
P	July 1, 1944	260,000	156,000
Q	July 1, 1945	290,000	174,000
R	July 1, 1946	305,000	183,000
S	July 1, 1947	335,000	201,000
T	July 1, 1948	365,000	219,000
U	July 1, 1949	395,000	237,000
V	July 1, 1950	445,000	267,000
W	July 1, 1951	340,000	204,000
Total.....		\$5,000,000	\$3,000,000

Legality

All legal proceedings pertaining to the issuance of this stock have been approved by Messrs. Far-
rand and Slosson, Attorneys, Los Angeles.

Yours very truly,

HENRY M. ROBINSON

President [83]

[Picture of Building]

Trust and Savings Building

Located on the Northwest Corner of
Sixth and Spring Streets
Los Angeles

One of the properties to be acquired by the
Pacific Southwest Realty Company

EXHIBIT "F"

PORTIONS OF LEASE DATED JULY 1, 1923
UNDER WHICH PETITIONER LEASED
CERTAIN OF ITS PROPERTIES TO PA-
CIFIC SOUTHWEST TRUST AND SAV-
INGS BANK

"This Lease, made in duplicate, as of July 1, 1923, between Pacific Southwest Realty Company, a corporation, herein referred to as Lessor, and Pacific-Southwest Trust & Savings Bank, a corporation, herein referred to as Lessee, witnesseth:

"Lessor owns certain real estate and buildings in the various cities and communities in which

Lessee is engaged in the banking business; Lessee desires to lease these properties, either in whole or in part, for its banking purposes and for use by any of its affiliated or subsidiary corporations and for other purposes. Lessor is willing to lease said property if it can be assured of a rental which shall always be sufficient, when combined with the revenues received by it from other sources, to pay all of its operating costs, all maintenance, upkeep, repairs, taxes, and insurance on the properties owned by it, and in addition, all interest, dividend, and amortization charges on its outstanding bonds and preferred stock;

“That the lessor, in consideration of the payment of the rent hereinafter specified to be paid by the Lessee, and the covenants and agreements hereinafter contained to be kept and performed by the Lessee, and other valuable adequate consideration, does by these presents demise, lease, and let, upon the terms, provisions and conditions hereinafter set forth, unto the Lessee, those certain premises situate in the State of California particularly described as follows:

* * * * *

(Description of Properties)

“1. Term of Lease. The term of this lease is and shall be Thirty (30) years from and after July 1, 1923, and ending on June 30, 1953, unless sooner terminated in accordance with the provisions hereof.

“2. Rent. Lessee agrees to pay rent for said premises and Lessor to accept said rent therefor as follows:

“Four Hundred Twenty Thousand Dollars (\$420,000.00) per annum during said term; payable in twelve (12) equal installments during each of said years, the payment for the month of July, 1923, to be made on the 20th day of July, 1923, and the payment for each of the following months to be made on the corresponding day of each of said months; the sum of Four Hundred Twenty Thousand [84] Dollars (\$420,000.00) is herein referred to as the ‘estimated rental’, and is the amount which Lessor and Lessee have estimated will give to Lessor the amount of rental referred to in the witness clause hereof; the actual rental will be adjusted accordingly, so that if the ‘estimated rental’ in any year is more or less than sufficient, when combined with the revenue received by Lessor from other sources, to pay all operating costs of Lessor, maintenance, upkeep, repairs, taxes, (including special assessments), and insurance on the properties owned by it, and in addition all interest, dividend, and amortization charges on its outstanding bonds and preferred stock issued or to be issued by it, the actual amount to be paid by Lessee to Lessor and received by Lessor hereunder will be adjusted accordingly; such adjustment to be made within thirty (30) days after July 1st of each year of said term, beginning July 1, 1924, upon a statement prepared by the Lessor. * * *” [85]

EXHIBIT "G"

ARTICLE FOURTH OF THE CERTIFICATE
OF INCORPORATION OF PETITIONER
AS AMENDED DECEMBER 16, 1927

"Fourth: The total authorized capital stock of this corporation is One Hundred twenty-five thousand (125,000) shares, divided into seventy-five thousand (75,000) shares of preferred stock of the par value of One Hundred Dollars (\$100.00) each, amounting in the aggregate to Seven Million Five hundred thousand dollars (\$7,500,000.00), and Fifty thousand (50,000) shares of common stock, which shares shall have no nominal or par value. The description of said classes of stock, and the designations, preferences, and restrictions, if any, and the voting power or restrictions or qualifications of such preferred stock and common stock, together with all other rights of such preferred stock and common stock, are as follows:

6½% Cumulative Preferred Serial Stock. Fifty thousand (50,000) shares of said preferred stock shall be designated '6½% Cumulative Preferred Serial Stock.' Said 6½% Cumulative Preferred Serial Stock shall be issued by the corporation in Twenty-three (23) series, to be designated by letters A to W, both inclusive, and each series shall be for the respective number of shares, redeemable at their par value plus all unpaid, accrued or accumulated dividends thereon, on the respective dates as follows:

Series	No. of Shares	Redeemable On
A.....	1,100	July 1, 1929
B.....	1,100	July 1, 1930
C.....	1,100	July 1, 1931
D.....	1,100	July 1, 1932
E.....	1,250	July 1, 1933
F.....	1,250	July 1, 1934
G.....	1,250	July 1, 1935
H.....	1,400	July 1, 1936
I.....	1,400	July 1, 1937
J.....	1,700	July 1, 1938
K.....	1,700	July 1, 1939
L.....	1,700	July 1, 1940
M.....	2,000	July 1, 1941
N.....	2,300	July 1, 1942
O.....	2,300	July 1, 1943
P.....	2,600	July 1, 1944
Q.....	2,900	July 1, 1945
R.....	3,050	July 1, 1946
S.....	3,350	July 1, 1947
T.....	3,650	July 1, 1948
U.....	3,950	July 1, 1949
V.....	4,450	July 1, 1950
W.....	3,400	July 1, 1951

“Twenty-five thousand (25,000) shares of said preferred stock may be issued from time to time in series as may from time to time be determined by resolution of the board of directors of this corporation, with variations as between each series in any one or more of the following particulars: [86]

(a) The designation of such series, which may be by distinguishing number, letter, or title as the board of directors may deem appropriate;

(b) The rate, which shall not exceed 6½% per annum, at which dividends are to accrue thereon; and

(c) Not exceeding \$5.00 per share payable as a premium in case of the redemption of said stock, or upon a voluntary liquidation, dissolution, or winding up of this corporation or reduction of its capital stock resulting in any distribution of its assets to its stockholders, which amount, in respect of any series, may, but need not, vary according to the time or circumstances of such action.

“If and whenever from time to time the board of directors shall determine to issue preferred stock other than said 6½% Cumulative Preferred Serial Stock, it shall, prior to the issuance of any shares of each such series, by resolution or resolutions, fix the terms of such series, in the particulars above mentioned, and shall cause the same to be set forth in such additional certificate or certificates, if any, as shall at the time be required by law.

“The rate of dividend to be paid upon said 6½% Cumulative Preferred Serial Stock and upon said other stock at whatever rate, not exceeding said six and one-half per cent (6½%), shall be fixed for the same is hereby referred to as the ‘fixed dividend rate,’ and the amount or amounts so fixed and/or to be hereafter fixed as the redemption premium payable upon the redemption of any of said preferred stock is hereby referred to as the ‘fixed redemption premium.’

“Said preferred stock may be issued as and when the board of directors of the corporation shall de-

termine, but no preferred stock shall be issued except for the purpose of acquiring with the proceeds of the sale thereof property suitable for one or more of the purposes of the corporation. Said preferred stock shall be issued for cash at not less than ninety-two per cent (92%) of the par value of said stock. The amount of preferred stock to be issued for such purpose shall not exceed, however, one hundred per cent (100%) of the appraised value of the property purchased, or to be purchased, with such proceeds. The aggregate indebtedness of the corporation secured by mortgage, deed of trust, or otherwise, shall not exceed in amount Fifty per cent (50%) of the appraised value of the property subject thereto. The total amount of preferred stock of the corporation at any time outstanding shall not, together with the total bonded indebtedness of the corporation, exceed One Hundred per cent (100%) of the appraised value of the property of the corporation. Said appraisements shall be made as of the date the corporation acquires said property. The appraisement of such property by an appraiser selected by the Superintendent of Banks of California, or by the Commissioner of Corporations of California, or by any official which shall be the successor of either of said officials, or if there is no such official qualified to make the selection of such appraiser, or if such officials shall fail to select such appraiser, by an appraiser selected by the Trustee in any trust in-

indenture executed by the corporation to secure any of its bonded indebtedness, shall be sufficient to establish said appraised values, and a certificate made and filed in the office of the corporation by such appraiser that [87] said property was appraised, setting forth the appraised value thereof, together with a detailed statement of the various items of property appraised, with their individual values, shall be conclusive evidence of the appraised value of said property for the purpose of the issuance of said stock and for all other purposes. Before the issuance of any such stock the president of the corporation shall file a certificate in the office of the corporation setting forth in detail the property purchased or to be purchased with the proceeds of the sale of such stock.

“If the corporation shall sell or exchange any of its property, it will within such reasonable time as it may require, do one or more or any combination of the following: (a) substitute for such property so sold or exchanged property of substantially such sale or exchange value; such sale or exchange value to be determined by an appraisement thereof made in the manner, with the effect, and by an appraiser selected as provided elsewhere in this Article Fourth; (b) purchase with the proceeds of such sale preferred stock of the corporation as permitted by this certificate; (c) purchase with the proceeds of such sale bonds of the corporation as may be permitted by any indenture or mortgage securing the same.

“Said preferred stock shall be entitled to receive in each year out of the surplus or net profits of the business of the corporation, dividends at the fixed dividend rate per annum, and no more, upon the par value of said stock from date of issue, payable quarterly as follows: On October 1st, January 1st, April 1st, and July 1st of each year.

“The dividends on all of the preferred stock of the corporation shall be cumulative, so that if in any year or years the dividends thereon shall not have been paid, such dividends shall be paid in full before any dividends shall be paid or set apart upon the common stock. The amount of any serial redemption of said preferred stock, if overdue, shall be paid before any dividends shall be paid or set apart on the common stock.

“Whenever the dividends upon all of the then issued and outstanding preferred stock for all past dividend periods shall have been declared, and the same shall have been paid by the corporation or the funds therefor set aside, the board of directors may declare dividends upon the common stock, payable at such time as the board may fix, out of any remaining surplus or net profits, provided that no dividends shall be declared, set apart, or paid on the common stock, and the holders thereof shall not be entitled to receive dividends thereon, until an amount equal to the amount of two full yearly dividends on the then issued and outstanding preferred stock of the corporation shall have been set

aside or deposited and [88] maintained with Los Angeles-First National Trust & Savings Bank, or such other trust company doing business in Los Angeles as the Board of Directors of the corporation shall by resolution designate.

“In the event of any liquidation, dissolution, or winding up of the corporation, whether voluntary or involuntary, the holders of record of said preferred stock shall be entitled, before any distribution shall be made to the holders of the common stock, to be paid out of the surplus profits arising from the business of this corporation and then remaining intact, or in case such profits shall be insufficient, then from the general assets of this corporation, an amount equal to the par value thereof plus said fixed redemption premium, plus all unpaid, accrued, or accumulated dividends thereon.

“The whole or any part of the preferred stock may be redeemed on any dividend date upon the payment of the par value thereof plus said fixed redemption premium per share, plus all unpaid, accrued, or accumulated dividends thereon. At least thirty (30) days notice of such redemption shall be given by mail, at their respective addresses as shown on the books of the corporation, to the stockholders of record on the books of this corporation whose stock is redeemed, and such notice shall also be given by publication in a newspaper of general circulation published in the City of Los Angeles,

and in a newspaper of general circulation published in the City of San Francisco, State of California, once a week for at least thirty (30) days prior to the date fixed for such redemption. Such redemption shall be by such method as shall be provided from time to time by resolution of the Board of Directors of the corporation, and at such time and place as shall be specified in the notice. From and after the date fixed in any such notice as the date of redemption, unless default shall be made by this corporation in providing moneys at the time and place as aforesaid for the payment of the redemption price of said stock, all dividends on such stock so called for redemption shall cease to accrue, and from and after said date all the rights of the holders thereof as stockholders of this corporation, except the right to receive such redemption price, shall cease and determine. All numbers of the certificates of said preferred stock so redeemed shall be appropriately cancelled on the books of this corporation and the stock evidenced thereby shall not be reissued.

“The whole or any part of the preferred stock may be purchased by the corporation at any time by purchase upon the open market at not to exceed the par value thereof plus said fixed redemption premium thereon, plus unpaid, accrued, and accumulated dividends thereon; provided, however, that in no case shall the corporation purchase stock in the open market, or use its funds or property for the purchase of said stock, when such use would cause

an impairment of the capital of [89] the corporation. Such stock, when so purchased, shall be cancelled as redeemed stock, and when so cancelled shall not be reissued.

“On the dates herein fixed for the redemption of said 6½% Cumulative Preferred Serial Stock and on the dates, if any, fixed in any resolution of the board of directors of this corporation for the redemption of any other of the preferred stock of this corporation, such stock then outstanding shall be redeemed at par, plus unpaid, accrued, and accumulated dividends, together with any premium thereon as provided or authorized by this certificate of incorporation.

“Such redemption shall be made at the office of the corporation in the City of Los Angeles, State of California, and from and after said date, unless default shall be made by the corporation in providing moneys at said time and place for the payment of the redemption price of said stock, all dividends on said preferred stock so redeemed shall cease and determine, and from and after said date all of the rights of the holders thereof as stockholders of the corporation, except the right to receive such redemption price, shall cease and determine. All numbers of the certificates of said preferred stock so redeemed shall be appropriately cancelled on the books of this corporation and the stock evidenced thereby shall not be reissued.

“In the event that the corporation shall fail to redeem said preferred stock at the time and place

herein and/or in said resolution herein authorized, the holders of said preferred stock shall have the right to enforce payment of the par value of said preferred stock so agreed to be redeemed, together with the amount of any unpaid, accrued, or accumulated dividends thereon, together with the premium, if any, to be paid on such redemption, the same as on any unconditional claim or debt against the corporation, and upon payment thereof the rights of the holders thereof as stockholders of this corporation shall cease and determine and said preferred stock so paid shall be appropriately cancelled upon the books of this corporation and said stock shall not be reissued.

“In making redemption of any preferred stock issued pursuant to resolution of the board of directors as herein authorized, the terms and provisions of any such resolution or resolutions shall likewise be complied with.

“So long as said dividends on said preferred stock shall be paid as herein provided, the holders of the preferred stock shall have no voting power on any question, except as provided by statute, or by this certificate, but on the contrary, the sole and exclusive voting power shall be vested in the holders of the common stock, but should any dividend on any preferred [90] stock be not paid when payable as herein provided, and remain unpaid for ninety (90) days thereafter, then and so long as such dividend, or any part thereof, remains unpaid, the

issued and outstanding preferred stock shall be exclusively entitled to the voting power, except as otherwise provided by statute, but upon such dividend, or unpaid part thereof, being paid, the voting power of the preferred stock shall cease and the voting power reinvest in the common stock, and so on from time to time as said dividend, or part thereof, may remain unpaid, or may be paid as aforesaid.

“No stockholder of this corporation shall have any preemptive or preferential right of subscription to any shares of any stock of this corporation, or to any obligations convertible into stock of this corporation, issued or sold, nor any right of subscription to any thereof other than such, if any, as the board of directors of this corporation in its discretion from time to time may determine, and at such price as the board of directors from time to time may fix, pursuant to the authority hereby conferred by the certificate of incorporation of this corporation, and the board of directors may issue stock of this corporation, or obligations convertible into stock, without offering such issue of stock, either in whole or in part, to the stockholders of this corporation. The acceptance of stock in this corporation shall be a waiver of any such preemptive or preferential right which in the absence of this provision might otherwise be asserted by stockholders of this corporation, or any of them.

“No shares of said preferred stock shall enjoy any preference over any other shares of said preferred stock, except to the extent herein set forth and authorized.

“The preferred stock shall be issued as, and shall be, fully paid up and non-assessable.

“The shares of common stock, without nominal or par value, may be issued by the corporation from time to time for such consideration as may be fixed from time to time by the board of directors.” [91]

INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE, MAY 31, 1923

NUMBER
1992

SERIES

3 1/2 % CUMULATIVE PREFERRED SERIAL STOCK

SERIES

REDEEMABLE JULY 1,

PACIFIC SOUTHWEST REALTY COMPANY

PAR VALUE \$ 100.00

Authorized Capital Stock: (a) 50,000 shares Common Stock, without nominal or par value; (b) \$5,000,000—3 1/2 % Cumulative Preferred Serial Stock, 50,000 shares, \$100.00 par, fixed dividend rate, 3 1/2 %, fixed redemption premium, 5% (\$100.00 per share), Series A to W, inclusive, maturing 1923-1931, inclusive; (c) \$1,000,000 Cumulative Preferred Serial Stock, \$100.00 par, dividend rate not to exceed 3 1/2 %, redemption premium not to exceed 5%, as determined by Board of Directors. On April 30, 1928, the Board of Directors determined upon the issuance of 1,000,000 (10,000 shares), fixed dividend rate, 3 1/2 %, fixed redemption premium, 5% (\$100.00 per share), designations and maturities as follows:

Series No.	Shares	Redeemable	Series No.	Shares	Redeemable	Series No.	Shares	Redeemable	Series No.	Shares	Redeemable	Series No.	Shares	Redeemable
AA	100	July 1, 1929	ES	100	July 1, 1943	II	200	July 1, 1947	MM	250	July 1, 1951	QQ	250	July 1, 1955
BB	100	July 1, 1930	FF	150	July 1, 1944	JJ	250	July 1, 1948	NN	250	July 1, 1952	RR	250	July 1, 1956
CC	100	July 1, 1931	OO	200	July 1, 1945	KK	250	July 1, 1949	OO	250	July 1, 1953	SS	250	July 1, 1957
DD	100	July 1, 1932	HH	200	July 1, 1946	LL	250	July 1, 1950	PP	250	July 1, 1954	UU	250	July 1, 1958
												VV	250	July 1, 1960

This Certifies that

is the owner of

fully paid 3 1/2 % Cumulative Preferred Serial Stock of Pacific Southwest Realty Company, a Corporation of the par value of One Hundred Dollars (\$100.00) each, transferred to you, the holder of this Certificate, by the holder thereof, in person or by attorney, upon surrender of this certificate properly endorsed. A statement of this reference and no other having optional or other special rights of the stock of the Corporation is printed on the back hereof and this certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the Certificate of Incorporation, as amended, a copy of which is on file in the office of the Registrar, all of which the holder by acceptance hereof assents.

This Certificate is not valid until countersigned by

*In Witness Whereof said Corporation has
its officers, and its Corporate Seal hereunto, of
date of*

19

Secretary

Shares of the

*the Transfer agent and registered by the Registrar.
raised this certificate to be signed by its duly authorized
agent, at Los Angeles, California, this*

President

COUNTERSIGNED

TRANSFER AGENT
SECURITY FIRST NATIONAL BANK OF LOS ANGELES

REGISTERED
SECURITY FIRST NATIONAL BANK OF LOS ANGELES
LOS ANGELES

AUTHORIZED OFFICER

BY

**Statement of the Preferences and Relative, Participating, Optional or Other Special Rights of the Stock of
FACIFIC SOUTHWEST REALTY COMPANY, and the Qualifications or Restrictions of Such Right.**

The preferred stock shall be entitled to receive in each year out of the surplus or net profits of the business of the Corporation, dividends at the rate of six per centum on the par value of the stock, to be paid semi-annually on the first day of January and the first day of July in each year.

The dividends on all of the preferred stock of the Corporation shall be cumulative, and if not paid in any year, the same shall be paid in any subsequent year. If the dividends on the preferred stock have been paid, each dividend shall be paid in full before any dividends are paid on the common stock.

When the dividends on the preferred stock of the Corporation shall be paid, the same shall be paid on the common stock. Whenever the dividends on the preferred stock of the Corporation shall be paid, the same shall be paid on the common stock. Whenever the dividends on the preferred stock of the Corporation shall be paid, the same shall be paid on the common stock.

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On the dates herein fixed for the redemption of said stock, the Corporation shall be entitled to the same rights and preferences as if the stock had been redeemed at par, plus unpaid accrued, and accumulated dividends, together with interest thereon as provided or authorized by the certificate of incorporation.

Such redemption shall be made at the office of the Corporation in the City of Los Angeles, State of California, and from and after said date, advance and price for the payment of the redemption price of said stock, will be paid on and preferred stock so redeemed shall cease to be stock, and the holders of the Corporation, except the right to receive such redemption of preferred stock, shall be deemed to be common stock.

In the event that the Corporation shall fail to redeem said preferred stock, the holders of said preferred stock shall have the right to force the redemption of the par value of said preferred stock so agreed to be redeemed, together with the premium, if any, to be paid on such redemption, the same as on any accumulation claim or debt against the Corporation, and upon the Corporation shall cease and determine and said preferred stock so paid shall not be deemed to be common stock.

In making redemption of any preferred stock issued pursuant to resolution of the board of directors as herein authorized, the terms and provisions of any such resolution or resolutions shall likewise be complied with. No stockholder of this Corporation shall have any preemptive or preferential right of subscription to any shares of this Corporation, issued or sold, provided, the holders of the preferred stock shall have the right to subscribe to any shares, except as provided by statute, or by this certificate, but on any such subscription, the holders of the preferred stock shall have the right to be paid when parable as herein provided, and remain unpaid for shares (90) of the common stock, the issued and outstanding preferred stock shall be strictly entitled to the voting power, except as otherwise provided by statute, and the preferred stock shall cease and the voting power relevant to the common stock, and so on from time to time as said dividend, or part thereof, shall be paid.

No stockholder of this Corporation shall have any preemptive or preferential right of subscription to any shares of any stock of this Corporation, issued or sold, provided, the holders of the preferred stock shall have the right to subscribe to any shares, except as provided by statute, or by this certificate, but on any such subscription, the holders of the preferred stock shall have the right to be paid when parable as herein provided, and remain unpaid for shares (90) of the common stock, the issued and outstanding preferred stock shall be strictly entitled to the voting power, except as otherwise provided by statute, and the preferred stock shall cease and the voting power relevant to the common stock, and so on from time to time as said dividend, or part thereof, shall be paid.

No shares of said preferred stock shall enjoy any preference over any other shares of said preferred stock, except to the extent herein set forth and authorized.

**HEREBY SELL, ASSIGN AND
SHARES OF THE
CAPITAL STOCK REPRESENTED BY THE WITHIN CERTIFICATE, AND DO
HEREBY IRREVOCABLY CONSTITUTE AND APPOINT**

**ATTORNEY TO TRANSFER THE SAID STOCK ON THE BOOKS OF THE WITHIN
NAMED CORPORATION, WITH FULL POWER OF SUBSTITUTION IN THE
PREMISES.**

DATED _____ **19** _____
IN PRESENCE OF

NOTICE: The signature of the assignee must be accompanied with the name as written upon the face of this Certificate in any jurisdiction without alteration or enlargement or any change whatever

EXHIBIT "I"

Additional Issue

\$1,000,000

Pacific Southwest Realty Company

5½% Cumulative Preferred Serial Stock

Par Value \$100 Per Share

Preferred as to assets and dividends, and in the event of liquidation entitled to receive \$102 per share. Dividends at the rate of 5½% per annum are cumulative and payable quarterly on the first day of October, January, April and July of each year. Callable, in whole or in part, on any dividend date upon 30 days' notice, at \$102 per share, plus accrued dividends. Stock may be transferred at the Company's office, Pacific-Southwest Bank Building, 215 West 6th Street, Los Angeles.

In opinion of Counsel, exempt from normal Federal Income Tax and exempt from Personal Property Tax in California

Los Angeles-First National Trust & Savings Bank,
Los Angeles, Registrar

This stock is issued in Series, designated "AA" to "VV" inclusive, maturing July 1, 1939 to July 1, 1960, respectively.

Mr. Henry M. Robinson, President of the Company, summarizes as follows the essential features of the issue:

History

The Pacific Southwest Realty Company was organized in 1923 to acquire from the Pacific-Southwest Trust & Savings Bank and The First National Bank of Los Angeles properties chiefly occupied by these institutions as bank premises in Los Angeles and other communities in which the banks were represented. All of the common stock of the Pacific Southwest Realty Company was acquired by the First Securities Company, and is still owned by that company. The First Securities Company is in turn wholly owned by the stockholders of the Los Angeles-First National Trust & Savings Bank, which is a consolidation of the above banks.

To finance the acquisition of these properties from the banks, the Pacific Southwest Realty Company had, prior to April 1, 1928, sold for cash to institutions and investors an aggregate of \$5,000,000 First Mortgage 5½% Bonds, and \$4,500,000 6½% Cumulative Preferred Serial Stock. As of April 1, 1928, a total of \$985,000 bonds had been retired. The first maturity of the preferred stock occurs July 1, 1929.

Authorized Capital Stock

During 1928 the authorized capital was increased by \$2,500,000, and now is as follows:

(a) 50,000 shares Common Stock, without nominal or par value.

(b) \$5,000,000 6½% Cumulative Preferred Serial Stock, 50,000 shares, \$100 par, fixed dividend rate 6½% per annum, fixed redemption premium of 5% (\$105.00 per share), Series "A" to "W", inclusive, maturing 1929-1951, respectively.

(c) \$2,500,000 Preferred Stock, 25,000 shares, \$100 par. The present offering of \$1,000,000, bearing fixed cumulative dividend rate of 5½% per annum and fixed redemption premium of 2% (\$102.00 per share), is a part of this authorized issue.

Outstanding Securities

With the completion of the present stock sale, the Pacific Southwest Realty Company will have outstanding \$4,500,000 6½% Cumulative Preferred Serial Stock, and \$1,000,000 5½% Cumulative Preferred Serial Stock, in addition to 50,000 shares Common Stock of no par value, owned by the First Securities Company.

With the completion of the present financing on or about July 2, 1928, there will be outstanding \$5,100,000 of first mortgage bonds. The aggregate total par value of outstanding preferred stock and bonds will then be \$10,600,000.

Properties

The principal buildings owned by the Realty Company are located at Sixth and Spring Streets, Los Angeles; Colorado Street and Marengo Avenue, Pasadena; and at Mariposa and Fulton Streets, Fresno. Each of these three properties is valued

at more than one million dollars. The Realty Company has heretofore owned 45 locations, of which 11 are within the corporate limits of Los Angeles, and the balance in communities where the Los Angeles-First National Trust & Savings Bank has been represented, from Fresno to El Centro.

We recommend this stock for investment and offer this issue, subject to prior sale and to allotment, at
\$98.00 Per Share, Plus Accrued Dividend from
July 1, 1928

First Securities Company

Owned by the Stockholders of the

Los Angeles-First National Trust & Savings Bank

Orders may be placed at any Branch of this Bank

Pacific-Southwest Bank Bldg.

Los Angeles

Telephone Vandike-2361

Pasadena Hollywood Glendale Long Beach

Santa Barbara Redlands Fresno San Francisco

June, 1928 [93]

The purpose of the present additional sale of stock and bonds is to acquire premises used wholly or in part for banking purposes at Santa Barbara, Dinuba, Altadena, San Fernando, Long Beach, Santa Monica, Culver City, Moneta, Belvedere Gardens, the following locations in Los Angeles—

Country Club Drive & La Brea Avenue, Jefferson & Arlington Streets, Carthay Center, Sixth & Alvarado Streets, and to pay for new buildings which have been erected in Hollywood and Pasadena on property heretofore owned by the Realty Company.

The aggregate cost of the Company's properties including those heretofore owned with those now being purchased, and including the new buildings which have been erected, will be in excess of \$11,-200,000.

Plan of Operation

It has never been intended to operate the Pacific Southwest Realty Company at a profit. At many points the Realty Company owns buildings adequate to accommodate tenants other than the Bank. Under such circumstances, an effort is made to rent as much of the available space as is not needed by the Bank to outside tenants at current prices. For the protection of the bondholders and preferred stockholders of the Pacific Southwest Realty Company, leases expiring in 1960 have been entered into between the Los Angeles-First National Trust & Savings Bank and the Realty Company whereby the Bank agrees to supplement the income collected by the Realty Company from outside tenants by an amount which when added to the sum collected from the rentals paid by others than the Bank will be sufficient to meet the operating expenses of the Realty Company, the interest on its bonds, the dividends on its preferred stock, and, in addition,

amortize over a period of years the total amount of bonds and preferred stock outstanding.

Protection of Stockholders

Every effort has been made to make the Preferred Stock as sound an investment security as possible, and having established its safety at the outset to provide that the stockholders' equity will never be impaired. To this end the Articles of Incorporation provide that the issuance of securities is to be based on the appraisalment of the properties made as of the date the Realty Company acquires such properties. Such appraisalment will be made by an appraiser selected by the Superintendent of Banks or by the Commissioner of Corporations of California or by their successors.

The clauses which protect the stockholders' equity are as follows:

(a) The amount of Preferred Stock to be issued shall not exceed 100% of the appraised value of the property purchased or to be purchased with the proceeds of the sale of such Preferred Stock.

(b) The aggregate indebtedness of the Company secured by mortgage, deed of trust or otherwise, shall not exceed in amount 50% of the appraised value of the property subject thereto.

(c) The total amount, however, of Preferred Stock at any time outstanding under (a), together with the total outstanding bonded indebtedness of the Company that may be issued under paragraph (b), shall not combined exceed 100% of the appraised value of the properties as established above.

The annual maturities of bonds and stocks will serve to increase the original equity as the different series mature and are retired.

If the Company sells or exchanges any of its property, it will within a reasonable time substitute for such property so sold or exchanged property of substantially equal value or retire with the proceeds of such sale Preferred Stock and/or Bonds.

Additional Preferred Stock can only be issued for cash for the purpose of acquiring with the proceeds of the sale thereof property suitable for the essential purposes of the Company, and further provided that the above provisions as to appraisal and the ratios of outstanding stock and bonds are maintained.

Special Provisions

1. No shares of Preferred Stock shall enjoy any preference over any other shares of Preferred Stock.

2. Preferred Stock shall be issued as fully paid up and non-assessable.

3. No additional Preferred Stock can be authorized nor the preferences altered without the consent of two-thirds of the holders of the outstanding Preferred Stock.

4. The Common Stock of the Company may receive dividends only when all Preferred Stock dividends have been paid, all matured stock redeemed and in addition only after an amount equal to the amount of two full yearly divi-

dends on the then outstanding Preferred Stock shall have been set aside or deposited and maintained with the Los Angeles-First National Trust & Savings Bank.

5. Should the dividends on the Preferred Stock remain unpaid for a period of ninety days after the date when such dividends are payable, the outstanding Preferred Stock enjoys exclusive voting power until any arrears in payment are extinguished.

6. In the event of failure to redeem any series of Preferred Stock on the maturity date, the holders thereof have the right to enforce the payment, as in the case of any unconditional claim or debt against the Company.

Tax Exemption

The Cumulative Preferred Serial Stock is, in opinion of counsel, free from the Personal Property Tax in California and likewise free from the Normal Federal Income Tax.

Ownership and Management

The entire issue of Common Stock, which enjoys the sole voting power, is owned by the First Securities Company, which is owned entirely by the stockholders of Los Angeles-First National Trust & Savings Bank. The management of the Pacific Southwest Realty Company is under the direction of Mr. Henry M. Robinson, President, and other officers and directors chosen from the officers and directors of the said bank.

Legality

All legal proceedings pertaining to the issuance of this stock have been approved by Messrs. Farrand and Slosson, Attorneys, Los Angeles. [94]

EXHIBIT "J"

(Form of Bond)

\$..... \$.....

United States of America

State of Delaware

(Vignette)

Pacific Southwest Realty Company

First Mortgage 5½% Bond, Series "A"

No.

Pacific Southwest Realty Company, a corporation organized and existing under and by virtue of the laws of the State of Delaware, and having its principal place of business in Delaware in the City of Dover, and in California in the City of Los Angeles (hereinafter called the "Company"), for value received, hereby promises to pay to the bearer, or, if registered, to the registered holder of this bond on the first day of July, 19....., Dollars, (\$.....) in gold coin of the United States of America, of or equal to the present standard of weight and fineness, together with interest thereon from the date hereof, at the rate of five and one-half per cent (5½%) per annum. payable semi-

annually in like gold coin, on the first days of January and July in each year, upon presentation and surrender of the interest coupons hereto attached as they severally mature. The principal hereof and the interest thereon are hereby made payable at Title Insurance and Trust Company, in the City of Los Angeles, State of California.

Both principal and interest shall be paid without deduction for any tax or taxes, assessments, or other governmental charges which the Company or the Trustee may be required or permitted to pay thereon or to retain therefrom under any present or future law of the United States, or of any state, county, municipality, or other governmental subdivision therein, not exceeding, however, in the case of Federal or other income taxes an aggregate of two per centum (2%) of the interest on the principal hereof.

This bond is one of an issue of thirty-six (36) First Mortgage 5½% Bonds, Series "A" of Pacific Southwest Realty Company, the total amount thereof being Three Million Dollars (\$3,000,000.00), all of like date and tenor, except the variations necessary to express their numbers, denominations, and maturities, the whole thereof, and the interest thereon being secured by a mortgage or deed of trust dated July 1, 1923, wherein Pacific Southwest Realty Company is grantor and trustor, and Title Insurance and Trust Company is grantee and trustee, assigning and conveying certain real and per-

sonal property described in said mortgage or deed of trust. For a description of the properties mortgaged, the nature and extent of the security, the rights of the holders of the bonds, and the terms and conditions upon which said [95] bonds are issued and secured, reference is made to said mortgage or deed of trust, to all of the provisions of which the holder hereof, by accepting this bond, assents.

The Company may, at its option, redeem and pay all or any part of said bonds upon any interest payment date, by the payment of the principal thereof and the interest due thereon, together with a premium of two per cent (2%) upon the principal thereof, such payment and redemption of said bonds to be accomplished in the manner set forth in said deed of trust.

In case an event of default, as defined in said mortgage or deed of trust, shall occur, the principal of all of said bonds including this, secured thereby then outstanding may become or be declared due and payable, in the manner, and with the effect provided for in said mortgage or deed of trust.

This bond shall pass by delivery unless registered in the name of the holder on the books of the Trustee, such registry to be in the manner and under the conditions specified in said mortgage or deed of trust. The registration of this bond shall not affect the negotiability of the coupons which shall continue to be payable to bearer and transferable by delivery.

No recourse shall be had for the payment of the principal of or interest upon this bond, or any part thereof, or for any claim based thereon, or otherwise in respect thereof, or on or in respect of said mortgage or deed of trust, against any incorporator, stockholder, officer, director, or trustee, past, present, or future, of the Company, whether by virtue of any constitution, statute, or rule of law, or by enforcement of any assessment or penalty or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the issue hereof, expressly released.

This bond shall not be valid or become obligatory for any purpose unless authenticated by the signature of Title Insurance and Trust Company, to the Trustee's certificate endorsed hereon.

In Witness Whereof, Pacific Southwest Realty Company has caused this bond to be signed in its corporate name by its President or a Vice-President and its corporate seal to be hereunto affixed, and duly attested by its Secretary or Assistant Secretary, and the coupons for said interest, with the engraved or lithographed fac-simile signature of its Secretary, to be attached hereto as of the first day of July, 1923.

PACIFIC SOUTHWEST REALTY
COMPANY,

By

Its President.

Attest:

.....

Secretary. [96]

(Form of Interest Coupon)

Coupon No. \$.....

On the first day of, 19....., unless the bond hereinafter mentioned shall have been called for previous redemption, Pacific Southwest Realty Company will pay to the bearer of this coupon at the office of Title Insurance and Trust Company, in the City of Los Angeles, State of California, Dollars (\$.....) in gold coin of the United States of America, being six months' interest then due on its First Mortgage 5½% Bond, Series "A" No.....

.....
Secretary. [97]

EXHIBIT "K"

Resolved, that the regular quarterly dividend of \$1.37½ a share on the 5½% Cumulative Preferred Serial Stock of this Corporation, amounting to \$13750, be and the same is hereby declared out of the earned surplus of the Corporation, payable July 1, 1937, to stockholders of record June 22, 1937, and that the stock transfer books of the corporation be closed from June 22, 1937, to said dividend payment date; and that the amount thereof be set aside and transferred to "dividend Declared" account.

[Endorsed]: U. S. B. T. A. Filed at hearing Feb. 20, 1941. [98]

[Title of Board and Cause.]

DESIGNATION OF CONTENTS OF
RECORD OF APPEAL

To the Clerk of the United States Board of Tax Appeals:

You are hereby requested to prepare, transmit and deliver to the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit copies, duly certified as correct, of the following documents and records in the above entitled cause in connection with the Petition for Review by the United States Circuit Court of Appeals for the Ninth Circuit heretofore filed by the above named petitioner:

1. Docket entries.

2. Pleadings.

(a) Petition including the notice of deficiency, and statement and claim and statement attached thereto.

(b) Answer of respondent.

3. Findings of Fact and Opinion of United States Board of Tax Appeals.

4. Decision of United States Board of Tax Appeals. [145]

5. Petition for Review.

6. Notice of Filing Petition for Review.

7. The Statement of Evidence with Exhibits called for therein, including Joint Exhibits A-1 and B-2. Said Statement of Evidence includes as Exhibit 1 thereto the Stipulation of Facts and Exhibits A

to K, inclusive, attached to the Stipulation of Facts.

8. This designation.

CLAUDE I. PARKER,

JOHN B. MILLIKEN,

BAYLEY KOHLMEIER,

808 Bank of America Building

Los Angeles, California.

Attorneys for Petitioner.

Of Counsel:

L. A. LUCE,

937 Munsey Building,

Washington, D. C.

Service of copy of this Designation of Contents of Record on Appeal is hereby admitted this 21st day of January, 1942.

Agreed to.

J. P. WENCHEL,

Attorney for Respondent.

[Endorsed]: U. S. B. T. A. Filed Jan. 21, 1942.

[146]

[Title of Board and Cause.]

CERTIFICATE

I, B. D. Gamble, clerk of the U. S. Board of Tax Appeals, do hereby certify that the foregoing pages, 1 to 146, inclusive, contain and are a true copy of the transcript of record, papers, and proceedings on file and of record in my office as called for by

the Praecipe in the appeal (or appeals) as above numbered and entitled.

In testimony whereof, I hereunto set my hand and affix the seal of the United States Board of Tax Appeals, at Washington, in the District of Columbia, this 27th day of January, 1942.

(Seal)

B. D. GAMBLE,

Clerk,

United States Board of Tax
Appeals.

[Endorsed]: No. 10037. United States Circuit Court of Appeals for the Ninth Circuit. Pacific Southwest Realty Company, a corporation, Petitioner, vs. Commissioner of Internal Revenue, Respondent. Transcript of the Record. Upon Petition to Review a Decision of the United States Board of Tax Appeals.

Filed February 2, 1942.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit

In the United States Circuit Court of Appeals
for the Ninth Circuit

Docket No. 10037

(B. T. A. Docket No. 102605)

PACIFIC SOUTHWEST REALTY COMPANY,
Petitioner,
vs.

COMMISSIONER OF INTERNAL REVENUE,
Respondent.

STATEMENT OF POINTS TO BE RELIED
UPON ON APPEAL AND DESIGNATION
OF PORTION OF RECORD TO BE
PRINTED.

Comes now the petitioner above named, by its attorneys of record, and complying with the rules of this Court states that it intends to rely on appeal on all and each of the errors assigned in the Petition for Review herein, which Petition for Review is included in the transcript herein, and petitioner hereby formally adopts the errors assigned in said Petition for Review as its Statement of Points to be Relied upon on Appeal.

Petitioner further states that it relies upon the entire record, certified by the Clerk of the United States Board of Tax Appeals to this Court and

directs that said record, so certified, be printed as the record on appeal.

CLAUDE I. PARKER,
JOHN B. MILLIKEN,
BAYLEY KOHLMEIER,
808 Bank of America Bldg.,
Los Angeles, California
Counsel for Petitioner.

[Title of Circuit Court of Appeals and Cause.]

AFFIDAVIT OF SERVICE BY MAIL

State of California

County of Los Angeles—ss.

Ruth Alquist, being first duly sworn, says: That affiant is a citizen of the United States and a resident of the County of Los Angeles; that affiant is over the age of eighteen years and it not a party to the within above entitled action; that affiant's business address is 808 Bank of America Building, Los Angeles, California; that on the 4th day of February, 1942 affiant served the within Statement of Points To Be Relied Upon on Appeal and Designation of Portion of Record To Be Printed on the Respondent in said action by placing a true copy thereof in an envelope addressed to Hon. Guy T. Helvering, Commissioner of Internal Revenue, Washington, D. C., and by placing a true copy thereof in an envelope addressed to J. P. Wenchel,

Chief Counsel of the Bureau of Internal Revenue, Attorney for Respondent, Washington, D. C., and by then sealing said envelopes and depositing the same, with postage thereon fully prepaid, in the United States Post Office at Los Angeles, California, where is located the office of the attorneys for the petitioner by and for which said service was made.

That there is delivery service by United States mail at the place so addressed or there is a regular communication by mail between the place of mailing and the place so addressed.

RUTH ALQUIST.

Subscribed and sworn to before me this 4th day of February, 1942.

(Seal) M. LeSAGE,

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Filed Feb. 5, 1942. Paul P. O'Brien, Clerk.

